

# **MISSOURI NATIONAL GUARD** **AND** **ASSOCIATION OF CIVILIAN** **TECHNICIANS**

(Pony Express Chapter, Show-Me Army Chapter and Show- Me Air Chapter)



**Labor/Management Agreement**

**23 February 2022 - 23 February 2025**

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**ARTICLE 1**  
**GENERAL PROVISIONS**

**1-1 Preamble:**

Whereas the well-being of employees and efficient administration of the government are benefited by providing employees an opportunity to participate in the formulation and implementation of personnel policies, practices, and matters affecting working conditions; and

The participation of employees should be improved through the maintenance of constructive, cooperative relationships between the Association and management officials, and the amicable settlement of disputes between employees and supervisors involving conditions of employment should be facilitated and encouraged.

An effective labor-management relation within the federal service requires a clear statement of the respective rights and obligations of the Association and Employer management;

Therefore, this agreement is entered into under the provisions of 5 USC Chapter 71, between the Adjutant General, State of Missouri hereinafter referred to as the "Employer" and the Association of Civilian Technicians (ACT), Missouri Counsel of Chapters, composed of Missouri (Army) Show-Me Chapter, Missouri (Air) Show-Me Chapter, and Missouri (Air) Pony Express Chapter, hereinafter referred to as "Association".

It is agreed that for the purpose of this agreement, reference to the word "he" is intended to include both the masculine and feminine genders, unless otherwise specifically addressed therein.

Wherever language in this agreement refers to specific duties or responsibilities of specific employees or management officials, it is intended to provide guidance as to how a situation may be handled, subject to limitations in 5 USC 7106 (a) and (b).

**1-2 Coverage:**

The Association is the exclusive representative for all wage grade (WG) and general schedule (GS) employees employed by the Missouri National Guard state-wide, excluding all professional employees, management officials, supervisors, and employees described in 5 USC, Section 7112 (b), (2), (3), (4), (6), and (7), in compliance with FLRA certification.

**1-3 Purpose of this Agreement:**

A) The Employer and the Association agree that they have had full opportunity to raise any and all issues during negotiations and this agreement represents the sum total of the terms and conditions which the Parties agree to abide by for the duration of the contract. This does not preclude the parties from mutually consenting to negotiating new articles. This paragraph does not infringe on past practices.

- 1) Establish a basic understanding, relative to personnel policies, practices and procedures, and matters affecting working conditions.
- 2) Provide for the highest degree of efficiency and responsibility in accomplishing the mission of the Employer.
- 3) Promote systematic labor management cooperation.
- 4) Facilitate the adjustment of grievances and disputes to a fair and reasonable solution.
- 5) To provide Missouri National Guard employees the opportunity to participate through the

Association prior to formulation and implementation of personnel policies and practices affecting the conditions of their employment.

- 6) To advance Labor/Management cooperation.
  - 7) The employer will ensure all supervisors will be trained, advised, and educated on the provisions and intent of this agreement through supervisor training and initial new contract brief. To ensure supervisors and employees have immediate and easy access, the agreement will be available digitally.
- B) The Association agrees to support the Employer in its effort to eliminate fraud, waste, and abuse, combat absenteeism, conserve materials and supplies, ensure timely completion of work, improve the quality of workmanship, encourage the submission of improvement and cost reduction ideas, prevent accidents, and promote the development of good will among the Employer, the Association, the employees, and the Missouri National Guard.

#### **1-4 Matters Appropriate for Consultation and Negotiation:**

All matters appropriate for consultation or negotiation, at the state or local level, in accordance with public law or regulation, will be addressed upon request of either party provided they are not inconsistent with the terms of this agreement.

#### **1-5 Labor – Management Cooperation:**

Representatives of the Association and the Employer will meet, when necessary, to confer with respect to personnel policies and practices and matters affecting working conditions. Subject matter will be exchanged, in writing, in advance of the meeting. Informal meetings may be arranged verbally as necessary.

#### **1-6 Contract Enforcement:**

The Association recognizes joint responsibility with the agency for the administration and enforcement of this agreement.

#### **1-7 Contract Printing:**

The contract will be in booklet form, approximately 5 ½ X 9 (100 copies). The Employer and the Association mutually agree to share equally the cost of producing 100 of these booklets. This will be accomplished as soon as practical but not to exceed 120 days after the effective date of this agreement. Association officers, stewards, and supervisors will receive hard copy of the Agreement.

#### **1-8 Contract Provisions Training:**

Within One hundred twenty (120) days after contract approval, an Employer representative and Association representative will conduct joint training sessions. Joint sessions will include managers, supervisors, and bargaining unit employees and will be for the purpose of allowing them to become familiar with the agreement. Any travel incurred by the Association representative for training will be paid by the Association. Training will be accomplished at no less than five mutually agreed Army locations and at two Air locations.

**ARTICLE 2**  
**LABOR-MANAGEMENT RELATIONS**

**2-1 Rights and Privileges:**

There shall be no procedure or policy negotiated in the Agreement that would diminish or impair any right or privilege which would otherwise be available to any employee in the absence of this Agreement. Parties of this agreement retain all rights in accordance with law, rule, and regulation, or any changes thereto.

**2-2 Employer Rights and Obligations:**

The Employer retains all rights consistent with applicable laws, rules, and regulations, or any changes thereto.

**2-3 Labor Organization's Rights:**

A) EXCLUSIVE REPRESENTATIVE:

The labor organization is the exclusive representative of the bargaining unit and is entitled to act for, and to negotiate agreements covering, all employees in the bargaining unit. The labor organization is responsible for representing the interests of all employees of the bargaining unit it represents without discrimination and without regard to labor organization membership.

B) REPRESENTATION RIGHTS:

**Formal Discussions:** An exclusive representative of the Association shall be given the opportunity to be present at any formal discussion between one or more Employer officials concerning any grievance or any personnel policies or practices, or other general conditions of employment.

**Weingarten Rights:** The Employer agrees to notify employees annually of their right to Association representation also known as Weingarten Rights. Furthermore, if at any time prior to, or during any examination or meeting with an employee, a supervisor determines that disciplinary action may result, the Employer agrees to inform the employee of their right to Association representation. The employer will inform the employee he or she may invoke their Weingarten rights at any time during the meeting, even if those rights were previously waived. The burden of proof rests upon the Employer to show proper notification of Weingarten rights was provided.

**2-4 Employee's Rights:**

Parties to this agreement recognize that, "each employee shall have the right to form, join, or assist any labor organization, or to refrain from such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right". Nothing in this agreement shall require an employee to become or to remain a member of a labor organization, or to pay money to the labor organization except pursuant to a voluntary, written authorization by a member for the payment of dues through payroll deductions.

**2-5 Individual Right to Representation:**

Employee is not precluded from;

- 1) being represented by an attorney or other representative, other than the labor organization, of the employee's own choosing; or
- 2) exercising grievance or appellate rights established by law, rule or regulation; except in the

case of grievance or appeal procedures negotiated within this agreement.

**2-6 Recognition of Association Officials/Stewards:**

Management agrees to recognize the elected and appointed officers and stewards duly designated by the Association. Unless so designated by the Association in writing, in advance of them performing Association functions, no employee will be recognized as an Association Officer or Steward.

**2-7 Representation at Formal Discussions:**

Management agrees that the Association has the right to be present at formal discussions between management and an employee or employees of the unit. Such discussions must deal with personnel practices and policies and/or matters affecting working conditions, so far, as may be appropriate under applicable laws, rules and regulations. Employees have the right to have an Association representative present during any formal discussions, and other investigatory interviews.

**ARTICLE 3**  
**NEW EMPLOYEE ORIENTATION PROCEDURES**

**3-1 Procedure:**

The Employer agrees to utilize a checklist, to ensure that an employee will be counseled on all aspects of employment within one (1) pay period after the effective date of employment. When a new employee is hired in the unit, management agrees to provide access to the Labor Management Agreement, job description, insurance pamphlets, and information concerning the chain of supervision. The contents of the checklist will contain, at a minimum, the items in 3-2. The Employer agrees to provide the Association with the checklist and notify the Association of any changes.

**3-2 Checklist:**

- A) Their bargaining unit status.
- B) The Association will provide a welcome letter to bargaining unit employees during new employee orientation.
- C) AGMO Technician Handbook.
- D) The employee's Weingarten Rights will be included on the checklist.
- E) After the employee has been briefed, the employee and the counselor will sign the checklist and file it in the employee's personnel records (at HRO) as a temporary document. (Note: temporary in this case means indefinitely).
- F) The employee is authorized to obtain, upon request, a "Civilian" ID card.

**3-3 Workplace Briefing:**

A supervisor at the work site shall also inform the new employee of opportunities for training and working policies.

**3-4 Notification:**

The appropriate Association official will be notified in writing of all new bargaining unit (BU) employees. Newly hired employees may meet with an Association representative in an off duty status, for the purpose of informing them of their right to join or not to join the Association.

**3-5 Formal Orientation Briefing:**

The Employer will notify the Association prior to the date the briefing is to be conducted. An Association representative may be present at all orientation briefings and will be given ample time to answer questions.

**ARTICLE 4**  
**TRAINING/EDUCATION**

**4-1 General:**

Although it is expected that personnel are basically qualified to perform their duties as a prerequisite to employment, the Employer and the Association recognize the continuing need for additional training or retraining.

**4-2 Training Programs:**

Management expects training to lead to:

- A) improved public service,
- B) dollar savings, and
- C) the building and retention of a permanent work force of skilled and efficient government employees, well abreast of scientific, professional, technical, and management developments both in and out of government.

**4-3 Training Prerequisites:**

Nothing in this article is to be construed as waiving the training prerequisites outlined in appropriate PDs.

**4-4 Training Option:**

Employees involved in a reduction in force, major equipment or technology change, reclassification or restructuring and as a result are assigned duties or put into a position that is not related or significantly different from their past job duties, will be evaluated for the most cost effective method of training for their new duties. The Employer will determine the most effective means of training that would ensure the highest standards of performance and the best modern practices and techniques related to their position requirements.

**4-5 Adjustment in Work Schedules for Educational Purposes:**

The Employer encourages the self-education, self-improvement, and self-training of employees. Employees may request, on a case by case basis, the opportunity to adjust their hours of work to attend educational development courses, which will benefit both the employee and the Employer.

**4-6 Technician Training:**

Training in T32 or T5 status will be in accordance with applicable law, rule, and regulation or any changes thereto.

**4-7 Special Certificates:**

When an employee's duties require special certification and licensing and an appropriate renewal of that certification, the Employer agrees to provide duty time to take the examination and fund costs of certification.



**ARTICLE 5**  
**TELECOMMUTING**

**5-1 Guidance**

This article is designed to provide guidance for telecommuting in accordance with applicable law, rule, and regulation, or any changes thereto. The Employer and the Association recognize that some positions, within the Missouri National Guard, may potentially be performed through telecommuting provided that it does not diminish employee performance or customer service.

**5-2 Requests**

Requests will be through the established supervisory chain to the Adjutant General. If after the Adjutant General or his designated representative considers a request, the approval or denial will be in writing. If the Employer determines telecommuting is beneficial, administrative procedures will be published.

**ARTICLE 6**  
**EMPLOYEE BREAK ROOMS**

The Employer agrees to designate and provide break rooms and sanitation facilities at worksite locations and meet with the Association concerning recommendations on improvements or additions to such facilities and negotiate, if necessary. Where practical, the employer agrees to provide refrigerators, microwaves and appropriate seating.

**ARTICLE 7**  
**UNIFORMS FOR EXCEPTED SERVICE TECHNICIANS**

- A) Technicians are required by Federal Statute to wear the military uniform. In doing so, management agrees that serviceable uniforms will be provided by the Missouri National Guard in the amount of three (3) additional duty uniforms for each dual status, bargaining unit technician. This number of uniforms is in addition to their normal military issue of uniforms.
  - 1) If the uniform cannot be issued at the employee's worksite, duty time and transportation will be provided to a location where uniforms can be issued. The employee's supervisor shall coordinate the time and method of travel.
  - 2) Duty time will be authorized for the purpose of exchanging unserviceable uniforms. The times will be coordinated with the employee's supervisor.
  - 3) Duty time will be authorized to receive issued uniforms. The time will be coordinated with the employee's supervisor.
  - 4) Employees who work in maintenance, supply and civil engineering will be issued and authorized to wear coveralls. For safety purposes, the coveralls will be in the correct size and authorized uniform.
- B) Bargaining unit technicians, who are officers, shall be issued uniform allowances in accordance with Federal Statute in lieu of paragraph A.
- C) The Employer shall provide all military rank of insignia, nametags and other mandatory accouterments. All sew on emblems, name tags, insignias and other mandatory accouterments will be attached. All costs will be borne by the agency.
- D) Uniforms may be washed during duty hours provided the technician has the proper uniform to continue work. The laundry facilities should not be used for non-duty clothing, PT clothing or clothing soiled under normal duty conditions.
- E) Unserviceable uniforms (faded, torn, improper fit, etc.) will be exchanged for serviceable uniforms on a one for one basis.
- F) If the law changes, allowing the wear of civilian attire, the parties agree to re-negotiate this article.
- G) Compliance with the terms of this article will be uninterrupted upon signing of this agreement.

**ARTICLE 8**  
**DUES DEDUCTION AND REVOCATION**

**8-1 Purpose:**

The purpose of this article is to provide a procedure for the authorization and revocation of voluntary allotments for the payment of Association dues. This procedure is entered into under the provisions of 5 USC 7115. This article is applicable to all employees who are covered by the bargaining unit for which exclusive recognition has been granted.

**8-2 Withholding Form:**

The Standard Form (SF) 1187 for dues deduction will be supplied by the Association and will be available at the Association office. The Association will also educate eligible employees on the program for allotments for the payment of dues and the uses and availability of the required form. The SF 1187 will be used as authorization for payroll deductions for dues.

**8-3 Processing:**

- A) The completed SF 1187 will be certified by the Association and forwarded to the HRO Labor Relations Office.
- B) The SF 1187 will be completed and certified as to the amount of withholding as set forth by ACT National Constitution and that the member has been advised of the contents of the form.
- C) The SF 1187 may be submitted at any time. SF 1187s, properly completed, certified, and received in the payroll office, will be processed upon receipt.

**8-4 Dues Allotment:**

- A) The dues allotment shall be figured according to the base rate of pay and shall be exclusive of locality pay, any hazardous duty, overtime, shift differential, premium, or other related pay outside the employee's basic rate of pay.
- B) If the amount or rate of regular dues is changed, the Association will notify the HRO, in writing, of the change. Adjustments to dues allotments will occur within two (2) pay periods whenever the member's rate of base pay changes.

**8-5 Dues Revocation:**

- A) The Employer agrees to provide, at the request of the employee, a copy of the Standard Form (SF) 1188 for use in revoking dues allotments. These forms will be available at the HRO Labor Relations Office for those individuals wishing to revoke their dues withholding. The SF 1188 will be the only form used for dues revocation for a bargaining unit employee.
- B) The bargaining unit employee will send the completed SF 1188 to the HRO Labor Relations Office. Bargaining unit employees shall have the option of dues revocation on or after the first annual anniversary date after the employee's election to participate in accordance with 5 U.S.C. 7115.
- C) The HRO Labor Relations Office shall date and initial all copies of the SF 1188 upon receipt from the employee. The second copy of the SF 1188 shall be forwarded by the HRO Labor Relations Office to the chapter treasurer within five (5) working days.
- D) The Employer shall automatically terminate an allotment in accordance with 5 USC 7115(b) which states: "Dues deductions with respect to any employee shall be terminated when-

- 1) The agreement between the agency and the exclusive representative involved ceases to be applicable to the employee; or
- 2) The employee is suspended or expelled from membership by exclusive representative.

**8-6 Exclusionary Provisions from Labor-Management Agreement (LMA):**

The Association and the Employer recognize that the expiration of the LMA (contract) shall not terminate or in any manner affect dues withholding established under this article. The parties agree that dues withholding shall continue under the procedures set forth in this article during re-negotiations of the LMA or until otherwise changed by mutual, written consent of the parties.

**ARTICLE 9**  
**RIDESHARING/CARPOOLING**

**9-1 Purpose:**

To save energy and relieve parking problems, management should encourage participation in ridesharing by as many employees as possible.

**9-2 Location:**

Designated parking, when requested by employees that participate in ridesharing, should be located in desirable parking areas. If parking spots are no longer being used, they will revert back to normal parking areas.

**9-3 Overtime Consideration:**

When overtime work is required, especially when short notification occurs, consideration should be given by management to employees that rideshare.

**ARTICLE 10**  
**OFFICIAL RECORDS**

**10-1 Record Review of eOPF and Supervisor's Employee Brief:**

Each employee shall, upon request, be permitted to review any documents appearing in the electronic Official Personnel Folder (eOPF) and/or the Supervisor's Employee Brief in duty status. Employees will be provided copies of documents if so requested. The employee may designate a representative, in writing, who will be authorized to view or be provided copies of documents from the eOPF and/or Supervisor's Employee Brief.

**10-2 Supervisor's Personnel File: Supervisor's Employee Brief Recordings:**

The employee record card will be maintained by the employee's immediate supervisor in a secured location. When any entries are to be recorded on the Supervisor's Employee Brief, the supervisor shall advise the employee and date entries made on the card. The employee will initial the entry. If the employee feels the entry is not correct a rebuttal process exists.

**ARTICLE 11**  
**WORKWEEK AND HOURS OF WORK**

**11-1 Basic/Administrative Workweek:**

- A) The administrative workweek is the period of seven consecutive calendar days (Sunday thru Saturday) with Sunday being the first day. The first scheduled 40-hour tour of duty is the basic workweek without the requirement for specific days and hours within the administrative workweek.
- B) Uncommon tours of duty may be established by management when it is determined the mission accomplishment will not be adversely affected.
- C) Management may explore the possibility of the creation of an alternate/compressed work schedule and provide such findings in written format to the Association. Additionally, the Association may submit an alternate/compressed work schedule through the unit/facility's supervisor for consideration. It is understood that the Employer has the right to establish, terminate, change, or not establish any alternate work schedule for any individual or unit. Both parties recognize and agree that prior approval of the Employer must be obtained in order to establish an alternate/compressed work schedule. The Employer retains the authority to establish work schedules for T32 employees in accordance with 32 USC 709 (h) (National Guard Technicians Act of 1968).
- D) Work schedules for T5 employees shall be negotiated with the Employer, or designated official, in accordance with applicable law, rule, and regulation, or any changes thereto.
- E) Basic workweek schedules shall be established so that all employees will have at least two (2) consecutive days off except as required by 5 CFR 610.121(a).
- F) The employer agrees to follow a liberal leave policy with regard to days before and after holidays, except as required by 5 CFR 610.121(a).

**11-2 Changes in Shift Assignments:**

- A) When operational capabilities will not be adversely affected, the Employer agrees to give due consideration to those individuals who ask for an uncommon work schedule change due to personal, family, or other unavoidable problems.
- B) If the Employer identifies a need to establish a change in permanent shift schedule assignment for the employee, the Employer will first ask for qualified volunteers. Should no qualified volunteers be forthcoming, assignments shall be made on a rotational basis. Those individuals assigned a new schedule will be given an advance notice of not less than 1 week, except as required by 5 CFR 610.121(a). A shift change is defined as a change to an employee's start time of 5 hours or more and lasting 2 or more pay periods.
- C) If the Employer identifies a need to temporarily change an employee's existing work hours, the Employer will first ask for qualified volunteers. Should no qualified volunteers be forthcoming, assignments shall be made on a rotational basis. Those individuals assigned the new work hours will be given not less than 1 week advance notice, except when the first O6 position in the chain of supervision or the equivalent supervisory authority determines that its operational capabilities will be seriously handicapped or costs would be substantially increased. The first O6 position in the chain of supervision or the equivalent supervisory authority may make temporary changes in work schedules in the event of an emergency, without the required 5 workday notice. This does not apply to situations where the employee is awarded compensatory time.
- D) Employees that are TDY to support an operation or mission, who remain in a T32 or T5 status, will be paid normal travel expenses and per diem in accordance with JTRs. Where a conflict in work hours



exists, the regular working hours of the employee may be amended to correspond to the normal duty hours of the host unit being supported for the duration of the assignment. Regular overtime procedures will continue in force.

#### **11-3 Cleanup Time:**

Assignment of work may involve the handling of, or exposure to, dirty, toxic or hazardous materials. Consistent with the nature of work performed, the Employer will provide clean up time prior to the beginning of lunch period and the end of the duty day. Such clean up time will not exceed 10 minutes unless approved by management.

#### **11-4 Rest Periods:**

- A) One fifteen (15) minute rest period may be authorized for each four (4) hour period of continuous work. The rest period will not be combined with the lunch period.
- B) The employee's supervisor will consider additional short rest periods, during the daily tour, when such periods are beneficial and/or necessary. Criteria for determining rest periods are as follows:
  - 1) Protection of an employee's health by relief from hazardous work or from that which requires continual and/or considerable physical exertion.
  - 2) Reduction of accident rate by removal of fatigue potential.
  - 3) Working in confined spaces or in areas where normal personal activities are restricted.
  - 4) An increase in, or maintenance of higher quality and/or quantity production traceable to a rest period.
  - 5) Employees who are utilizing monitors on a continual basis may be allowed additional rest periods of 5 minutes per hour to possibly reduce eye stress and mental fatigue. Employees remain subject to the assignment of work during additional rest periods.

#### **11-5 Lunch Periods:**

- A) Management will make every effort to ensure an employee's lunch period is entirely free of duty, is not considered duty time and will be scheduled outside the hours established for the daily tours of duty. If technicians are not allowed an uninterrupted lunch break, they will accrue compensatory time in accordance with the Overtime Article. In no case will the lunch period be more than one and one-half hour before or after the middle of the shift.
- B) There will be two (2) allowable lunch periods: The supervisor shall make every effort to allow the employee the choice of 1 or 2 below.
  - 1) A one half-hour lunch.
  - 2) A one-hour lunch.
- C) When mission requires, a lunch period of 20 minutes or less is counted as time worked in accordance with 29 CFR 785.19 - Meal. The employee is not relieved if he is required to perform any duties, whether active or inactive, while eating.

#### **11-6 Premium Pay and Shift Differential:**

- A) Premium Pay - Will be paid on Sunday and Holidays in accordance with Title 5 USC.

B) Shift Differential –

- 1) Federal Wage System: Will be paid in accordance with 5 USC 5343 and 5 CFR 532. 7 1/2% will be paid when the majority of the work hours occur between 3 p.m. and 12 midnight. 10% will be paid when majority of the work hours occurs between 11 p.m. and 8 a.m. The entire shift will reflect the appropriate shift differential.
- 2) General Schedule (GS): Will be paid in accordance with 5 USC 5545 and 5 CFR 550 at a rate of 10% over the scheduled rate when the actual hours of the regularly scheduled work fall between the hours of 6 p.m. and 6 a.m. This includes periods of absences with pay due to holidays and leave with pay provided such leave does not exceed eight (8) hours.

## **ARTICLE 12**

### **APPROPRIATE BARGAINING OVER EMPLOYER CHANGE OF A CONDITION OF EMPLOYMENT**

#### **12-1 Impact and Implementation, Accordance with Applicable Laws, and Permissive Bargaining**

A) If the Employer wishes to change a condition of employment and the change is

- 1) an exercise of a reserved management right contained in 5 U.S.C. § 7106(a) or any amendment thereto;
- 2) a permissive subject of bargaining on which the Employer elects not to bargain; or
- 3) required by a federal statute, a government-wide regulation, or an agency regulation for which a compelling need exists,

Then the Employer, with respect to the proposed change, has a duty to bargain over

- 4) procedures, as stated in 5 U.S.C. § 7106(b)(2) or any amendment thereto;
- 5) appropriate arrangements, as stated in 5 U.S.C. § 7106(b)(3) or any amendment thereto;

B) In deciding whether to elect to bargain a change that is a permissive subject of bargaining, the Employer will

- 1) consider relevant factors, such as the necessary functioning of the agency or need to end an unlawful practice requiring implementation of a change before completion of bargaining; or a compelling need exists for an agency regulation; and also any Association request to bargain.
- 2) provide the Association a written statement of facts and reasons for the decision, if the Employer decides not to elect to bargain.

#### **12-2 Substantive Bargaining**

An Employer proposal to change a condition of employment is subject to substantive bargaining—including bargaining over whether the change will occur at all—if the change is (1) not an exercise of a management right; (2) not a permissive subject of bargaining on which the Employer elects not to bargain; and (3) not required by a federal statute, a government-wide regulation, or an agency regulation for which a compelling need exists.

#### **12-3 Time Frames for Bargaining**

Management agrees to deliver to the Association draft copies of management proposed changes affecting working conditions for review prior to implementation. If the Association desires formal discussion concerning contents of the drafts, management shall be contacted within ten (10) workdays after receipt to establish a meeting time/place to discuss the matter. Management agrees to deliver to the Association, if requested, all appropriate regulations, policies, documents, and any other information relative to and affecting management proposed change to working conditions immediately but not less than ten (10) workdays prior to bargaining.

#### **12-4 Meetings**

Upon notification by the Association, management agrees to meet within ten (10) workdays after receipt of all documentation requested by the Association unless both parties agree to a different timeframe.

**ARTICLE 13**  
**EMPLOYEE ASSISTANCE PROGRAMS**

**13-1 Policy:**

- A) The Employer and the Association recognize alcoholism and drug abuse as a treatable health problem. Although particular emphasis will be given to those employees with health problems related to drug or alcohol abuse that may affect an employee's work performance, an employee will not be excluded from seeking or receiving assistance for other personal problems such as financial difficulties, legal, family, or other problems that may affect job performance.
- B) Employees having illnesses related to drug and alcohol abuse will receive the same careful consideration and offer of assistance that is presently extended to employees having any other illness or health related problem.
- C) Employees who have psychiatric problems or who are suffering from what could be defined as stress related medical conditions may also be afforded assistance in the program.
- D) Sick leave will be authorized for the purpose of treatment or rehabilitation as in any other illness or health problem.
- E) The confidential nature of medical records of employees will be maintained in accordance with applicable law, rule, and regulation, or any changes thereto.

**13-2 Program Responsibility:**

- A) The Employer will establish an Employee Assistance Program (EAP), appoint a program coordinator and ensure proper training is provided. The Employer will contract (subject to availability of funds) with a provider of EAP services who provides access to services twenty four (24) hours per day, seven (7) days per week. At a minimum, the cost for the initial three (3) visits to a service provider approved by the EAP referral agent will be covered by the contracted services. The services will be contracted through an approved government vendor for contracted EAP services with national EAP firms.
- B) The Employer agrees that all confidentiality is maintained between the coordinator, employee and supervisor.
- C) In addition, employees may avail themselves of the program services on their own initiative. Rehabilitation expenses which exceed the services provided in 13-2a and the employee's service benefit plan (Federal Employees Health Benefit Plan) are the responsibility of the employee.

**13-3 Personnel Actions:**

- A) Employees with drug or alcohol problems will be held to the same performance and conduct standards which apply to other employees.
- B) An employee's job security or promotion opportunities will not be jeopardized by requesting counseling or referral assistance through the program.

**ARTICLE 14**  
**HEALTH AND SAFETY**

**14-1 General:**

The Employer agrees to provide safe and healthful working conditions in compliance with applicable laws and regulations. It is recognized that the Employer, as well as the employee have a responsibility to observe safety policies and procedures, and that the Employer is responsible to provide required safety training. Appropriate actions to correct the unsafe situation must be taken by both the Employer and employees. The Association and employees may also assist by suggesting methods of improving safety conditions. The Employer and Association agree to analyze all situations relating to hazardous exposure.

**14-2 Safety Factors:**

The primary responsibility for personal safety rests with the individual employee. Management has the responsibility to ensure that the working conditions are as safe as possible and that all employees observe safety rules and procedures. All employees should report violations and hazards as soon as they are noticed and take appropriate actions to correct the unsafe situation. When appropriate, no fewer than two employees will be permitted to work in an isolated area without periodic checks, i.e.; telephonic or otherwise. The Employer, prior to the employees' arrival at their work sites, must make a reasonable effort to clear parking lots and roadways of snow and ice. Employees who participate in snow or ice removal will be in a duty status.

**14-3 Hazardous Material/Communications Training:**

If management determines that HAZCOM training is needed, it will be provided to employees in accordance with federal and state laws and will be implemented IAW DoD directives. Material Safety Data Sheets (MSDS) shall be available to the employees affected and be in close proximity and available for the employee's use.

**14-4 Personal Protective Equipment/Ergonomics:**

- A) The Employer will provide Personal Protective Equipment (PPE). This equipment will be made readily available for use. Exchange for unserviceable PPE will be at no charge to the employee. PPE required for each work center will be determined by the supervisor after consultation with the Safety Office in accordance with applicable law, rule, and regulations or any changes thereto. Provisions will be made for cleaning and care of the equipment at the facility or other suitable facility, at no cost to the employee so as not to introduce hazards outside the work place. Lockers and/or storage space shall be provided for PPE. The Employer agrees to ensure security of individual issue PPE when stored in a common use storage area. The Employer will provide PPE to include Safety boots/shoes and safety glass (prescription or nonprescription). Items that are not readily available through the Employer shall be locally purchased (at the cost of the Employer).
- B) Ergonomics - Replacement office equipment will be of appropriate design to enhance the efficiency and well-being of employees. Administrative personnel and those suffering from carpal tunnel syndrome or similar conditions will be given first priority in receiving equipment of ergonomic design. The use of telephonic headphones for personnel having medically documented neck problems shall be authorized and paid for by the agency. Individuals requiring the use of headphone shall notify his supervisor for the authority to procure them from the State Occupational Health Office.
- C) The Employer will provide uniforms manufactured with non-static producing materials, to all employees and officers, who perform tasks that require these special uniforms by regulations or technical guidance.

#### **14-5 Tobacco:**

Both management and the labor organization recognize the rights of all employees and in accordance with federal law, tobacco usage will not be permitted within AGMO buildings and conveyances.

- A) The Employer will designate outdoor tobacco use areas, which are reasonably accessible for employees.
- B) Employees who desire to enter a smoking/tobacco cessation program may seek assistance through the agency's assistance program. Agency assistance will be provided only once in the employee's career.
- C) Employees who use the smoking area should be responsible for trash disposal, cleaning, and upkeep of the designated smoking area.

#### **14-6 Limited Duty/Disabilities:**

- A) Consistent with law, rule, and regulation, an employee who has been injured or temporarily incapacitated and able to perform limited duty may be assigned to perform alternate duties until they have recovered from the injury or incapacitation.
- B) Office of Workers Compensation Program (OWCP) Continuation of Pay - for any covered incapacitating injury incurred while in a duty status, employees may be authorized continuation of pay (COP) status for a period not to exceed forty-five (45) days. Immediate filing of the appropriate workers compensation claim form, is essential to ensure full coverage for any job related injury or illness.

#### **14-7 Imminent Danger:**

- A) Applicable safety directives will not be violated in the performance of an employee's duties. Assigned duties that violate safety directives will be brought to the immediate attention of a management official.
- B) The term "imminent danger" means any conditions or practices in any work place, which could reasonably be expected to cause death or serious physical harm.
  - 1) In the case of imminent danger situations, employees shall make reports by the most expeditious means available.
  - 2) The employee has the right to decline to perform assigned tasks because of a reasonable belief that, under the circumstances, the tasks pose an imminent risk of death or serious bodily harm, coupled with a reasonable belief that there is insufficient time to effectively seek corrective action through hazard reporting and abatement procedures. In these instances, the employee must report the situation to the supervisor or the next immediately available higher level supervisor.
  - 3) If the supervisor believes the condition or corrected condition still poses an immediate danger, then management shall request an inspection by the Safety Office, and the results will be made available to all parties concerned upon request.

#### **14-8 Temperature Restrictions:**

The Employer will furnish extreme weather items to the employees. Local procedures shall be developed to inform bargaining unit employees of heat and cold extremes.

- A) Extreme Heat - The Employer agrees that when the combined figures of the existing temperature in degrees Fahrenheit (not less than 85 degrees) and the relative humidity result in a combined total figure of 140 or more, the Employer will allow the effected employee to seek relief from the extreme conditions by means of extra rest periods, reduced activity and removal of those items of outer clothing necessary to prevent or reduce the danger of heat fatigue. Appropriate sweatbands and headgear may be worn while in the work area.
- B) Extreme Cold - When the wind chill factor reaches 0 (zero) degrees, extra rest periods in a heated area will be given. In cold weather with a wind chill factor of negative 20 degrees below zero, employees should not be required to work outdoors (except for emergency situations) until the wind chill factor rises to above negative 20 degrees.
- C) It is realized that tolerance between individuals differ and that the type of outside work being accomplished affects the body heat generated by a worker, therefore, common sense must be applied.
- D) During operational situations, employees may be subjected to extreme temperatures for brief periods of time. Winds may be produced or accelerated by propellers, rotors or aircraft design that exceed reported velocities. Exposure time will be kept to a minimum.

#### **14-9 Medical Surveillance Program:**

The Employer and Association acknowledge the need for a comprehensive medical surveillance program for the health and well-being of the employees and to abide by established service regulations and safety standards. Occupational physicals that are required in accordance with Occupational Safety and Health Administration (OSHA) standards will be evaluated/accomplished by a qualified/certified occupational physician during the employee's workweek. ANG personnel may be evaluated/accomplished in a paid status other than T32 or T5 at the employee's option. Lab work required for occupational physicals will be contracted through an accredited lab. Employees will receive timely, written notification of an abnormal report.

#### **14-10 Local Safety Committees:**

The Employer agrees to establish local safety committees. The Association will nominate for appointment by the Employer a representative from within the bargaining unit to serve as a member on each local safety committee when established. The name of personnel serving on local safety committees will be published and posted on appropriate bulletin boards. The Association representatives on local safety committees will be afforded the same opportunities to attend applicable safety schools as other members of the safety committee.

#### **14-11 State Safety Council (Army):**

The Association will nominate for appointment by the Employer, a representative for membership on the Council. The purpose of this Council is to assist and advise the Employer, in accordance with applicable safety directives, on matters effecting occupational health and safety. This Council shall meet once each quarter or upon call of the chairperson. Minutes of all meetings will be recorded and copies furnished to the Employer and the Association Chapter Secretary.

#### **14-12 Physical Fitness:**

Physical fitness is a personal responsibility. It is a recognized fact, that physically fit employees are healthier, happier and more productive. The Employer and the Association agree that a physical fitness program should be implemented on an individual voluntary basis.

**ARTICLE 15**  
**HAZARDOUS DUTY PAY AND ENVIRONMENTAL DIFFERENTIAL PAY**

**15-1 Purpose:**

The purpose of this article is to define the situations under which Hazardous Duty Pay (HDP) and Environmental Differential Pay (EDP) are paid to technicians employed by the Missouri National Guard. Specific procedures and guidelines are established in accordance with applicable law, rule, and regulation, or any changes thereto. The Employer and the Association have, as their objective, the elimination or reduction to the lowest level possible, all hazards, physical hardships, and working conditions of an unusually severe nature.

**15-2 Coverage:**

- A) This article applies to all Missouri National Guard employees covered by this agreement whether they are employed on a full- time, temporary, part-time, or intermittent basis.
- B) HDP applies only to General Schedule (GS) employees.
- C) EDP applies only to Federal Wage System employees.
- D) HDP may not be paid to an employee when the duty has been taken into account in the classification of the employee's position.

**15-3 Policy:**

- A) HDP and EDP are compensation programs available to employees during times where they are actually exposed to various degrees of hazard, physical hardship, and working conditions of an unusually severe nature. Authorization for these pay differentials does not eliminate the continuing responsibility of all concerned to initiate positive action to eliminate or reduce danger and risk which contribute to or cause the hazard, physical hardship, or working condition.
- B) The existence of HDP and EDP differentials is not intended to condone work practices that circumvent federal safety laws, rules, and regulations.
- C) When a potential hazard or actual discomfort is identified in a work assignment, first consideration must be given to the protection of the employee. Protective measures that reduce the hazard to the employee and/or tend to relieve discomfort must be made available, if at all practicable, and the application of these measures enforced. The payment of pay differentials is a measure that admits that no available means can reasonably be employed to adequately, or where appropriate, practically eliminate the hazard or discomfort to reasonably tolerable levels.
- D) HDP/EDP exposure categories and authorized pay differentials are outlined in (EDP) 5 CFR, Part 532.511, Subpart E, Premium Pay and Differential, and (HDP) Part 550.901 Subpart I, Pay for Duty Involuntary Physical Hardship or Hazard.
- E) HDP/EDP situations will be reviewed on an annual basis to validate the necessity for continuing or discontinuing their use by the Adjutant General or designated representative.

**15-4 Responsibilities, Procedures and Forms:**

The procedures are in accordance with applicable law, rule, and regulation, or any change thereto.

- A) Employees – Each individual is required to work within the dictates of sound safety and occupational



health practices and procedures. In those instances where the application of these practices and procedures cannot practically eliminate a hazardous situation, the employee must report this situation to the supervisor.

- B) Supervisors – All supervisors/managers must ensure that safety practices and acceptable work procedures are followed. In those instances where the application of these practices and procedures cannot practically eliminate a hazardous situation, the supervisor/manager must report the situation, and initiate a request to establish an HDP/EDP situation within 15 working days. Upon receipt of a request to establish an HDP/EDP situation, the supervisor must examine the situation and provide recommendations through approved channels as indicated on AGMO Form 104-R. Supervisors and managers do not have the authority to approve or disapprove a request to establish any HDP/EDP situation. After a situation has been initiated, the form must be completed and routed through the entire process. Once a situation is approved, only the summary of hours exposed needs to be submitted through the appropriate pay processes.
- 1) The employee and first line supervisors will sign the form and forward it, within 5 working days, through the supervisory chain to the commander. The commander, or designated representative, will forward the request, within 10 working days, to the local Safety Office for evaluation of the situation and submission of a safety report. Safety Office forwards within 15 working days to the Environmental Office and/or Industrial Hygienist;
  - 2) The local Environmental and/or Industrial Hygienist Office will evaluate the situation and submit an environmental survey. The Environmental Office forwards to the Union Representative within 15 working days;
  - 3) The Labor Union Representative will concur or nonconcur and forward to the State Occupational Health Nurse within 5 working days.
- C) Occupational Health - The Occupational Health Nurse, or designated representative will review the situation and provide any supporting documentation for concurrence or nonconcurrence and then forward to the State Safety Office or State Aviation Safety Office within 15 working days.
- D) State Safety Office - The State Safety Office or State Aviation Safety Office will contact the HRO Classification Specialist, upon receipt, to schedule a committee meeting and review the situation and provide any supporting documentation for concurrence or nonconcurrence and then forward to the Human Resources Office, Classification within 20 working days.
- E) Human Resources Office - The HRO Classification Specialist, or designated representative will schedule a committee meeting to occur no later than 40 working days after notification by the State Safety Office of receipt of a submission. The Classification Specialist, or designated representative, after receiving the completed submission from the State Safety Office, will compile HDP/EDP situations for submission to the HDP/EDP Committee Chair within 10 working days.
- F) HDP/EDP Committee Chair - The Chair will present the situation(s) to the HDP/EDP Committee for consideration. The Committee will concur or nonconcur with the recommendations.
- G) HDP/EDP Committee - The Committee will forward the situations to the HRO for the Adjutant General's or designated representative's final approval or disapproval of the situation(s) within 20 working days.
- H) All offices should process their respective portion as quickly as possible. However, any office that cannot complete their portion of the process within the allotted time will notify the HRO Classification Specialist with justification. The HRO Classification Specialist, or designated representative will then notify the affected Association chapter Secretary with the reason for the delay. The goal is for the committee to meet no later than 6 months after the request is submitted.

- I) Human Resources Office - The Human Resources Office (HRO) is responsible for the overall monitoring and annual review of the HDP/EDP programs/plans. The HRO may request that the AGMO Form 104A-R is completed by supervisors to validate that the HDP/EDP situation still exists.
- J) The Adjutant General, or his designated representative, is the final authority for approving or terminating an HDP or EDP situation.

**15-5 Hazardous Duty Pay (HDP) (General Schedule):**

- A) Introduction - This section provides details necessary to implement an HDP in the Missouri National Guard technician program as authorized by 5 CFR 550.901.
- B) Coverage - This article establishes the procedure for determining a schedule of pay differentials for irregular or intermittent duty involving unusual physical hardship or hazard. The law applies to GS employees serving in full-time, part-time or intermittent positions.

**Definitions:**

- 1) Duty involving physical hardship: duty which may not in itself be hazardous, but, which causes extreme physical discomfort or distress and which is not adequately alleviated by protective or mechanical devices. Situations which could qualify for HDP are:
    - a. Duty requiring exposure to extreme temperatures for a long period of time (see health and safety article).
    - b. Duty involving arduous physical exertion, such as duty which must be performed in cramped conditions.
  - 2) Hazardous duty: duty performed under circumstances in which an accident could result in a serious injury or death, such as duty performed on a high structure where protective facilities are not used or on an open structure where adverse conditions such as darkness, lightning, steady rain or high wind velocity exist.
  - 3) Hazard pay differential: additional pay for performance of hazardous duty or duty involving physical hardship.
- C) Authorization to Pay HDP:
- 1) The supporting pay branch is authorized to pay HDP when:
    - a. There is an approved HDP situation.
    - b. The supervisor has processed the required documentation to supporting pay branch.
  - 2) HDP may only be paid to employees who are assigned hazardous duty or duty involving physical hardship.
- D) Payment of HDP:
- 1) Hazardous pay differentials may not exceed an amount equal to 25 percent of the rate of base pay applicable to the employee. Hazard pay is in addition to any additional pay or allowances to which the employee becomes entitled. It shall not, however, be used to compute any additional pay or allowances payable under another statute or law.
  - 2) When an employee performs duty for which hazard pay is authorized, he will be entitled to hazard

differential pay for the hours in a pay status on the day in which the hazardous duty was performed. Hours in a pay status for work performed during a continuous period extending over two days shall be considered to have been performed on the day on which the work began and allowable hazardous pay shall be charged to that day.

- 3) Payment of hazardous pay is authorized for employees only while they are in a pay status.
- 4) Payment of the HDP shall be made to the employee not later than the second pay period after the actual exposure takes place for an established hazard as determined by the EDP/HDP committee.

E) Termination of HDP:

The Employer shall discontinue payment of HDP to an employee when;

- 1) Safety precautions have reduced the element of hazard to a less than significant level of risk, consistent with generally accepted standards that may be applicable, such as those published by the OSHA or Department of Labor (DoL) or:
- 2) Protective or mechanical devices have adequately alleviated physical discomfort or distress.

**15-6 Environmental Differential Pay (EDP) (Federal Wage System):**

A) Introduction - This section provides some of the details necessary to implement an Environmental Differential Pay program in the Missouri National Guard technician program as authorized by 5 CFR 532.511.

B) Coverage - Environmental Differential Pay is applicable only to Federal Wage System employees as authorized by 5 CFR 532.511 and this article. Environmental Differential Pay will be paid IAW 5 CFR 532.511

C) Basis for EDP:

- 1) Environmental differentials are paid for those work situations in which the employee is exposed to a potentially severe hazard which has a real probability of occurrence and for which no adequate precautions or protective facilities are possible to minimize or practically eliminate physical injury, illness or death to the worker should the potential of the situation actualize. Examples of unusually severe hazards for which EDP would be authorized are:
  - a. A high structure when the hazard is not eliminated by protective facilities such as scaffolding and/or enclosed ladders.
  - b. A high open structure when adverse conditions such as darkness, lightning, steady rain, snow, sleet, ice or high wind velocity exist.
  - c. Exposure to an unusually severe physical hardship under circumstances which cause significant physical discomfort or distress not eliminated by protective devices.
- 2) Environmental situations do not qualify for differential compensation simply on the basis that an element of hazard or discomfort has been identified in a work situation. The hazard must involve a real threat with no effective measures available to adequately alleviate the employee from attendant discomforts or threat of injury. Significant actual discomfort arising from the work situation must be experienced by the employee with no effective means available to relieve the discomfort.

- 3) If no effective measures are available to protect the employee from the effects of the work environment, and real injury or serious discomfort is experienced by the worker, appropriate compensation through environmental differential pay must be provided. However, the essential requirement for the work assignment which involves potential hazard or serious discomfort must be determined first. Second, such protection as is available must be applied to reduce the effect of the adverse environmental conditions to whatever minimum is possible. Third, the number of employees exposed to a potential hazard or severe discomfort should be limited to the absolute minimum necessary to accomplish the work assignment.

D) Payment for EDP Situations:

- 1) An environmental differential is paid to a Federal Wage System employee who is exposed to a hazard, physical hardship or working condition of an unusually severe nature.
- 2) An employee subjected at the same time to more than one hazard, physical hardship, or working condition of an unusually severe nature shall be paid for that exposure which results in the highest differential but, shall not be paid more than one differential for the same hours worked.
- 3) Environmental differential pay is authorized only when employees are in a pay status. Overtime which is worked for compensatory time off is not considered a paid status for this purpose.
- 4) Payment of EDP shall be made to the employee no later than the second pay period after the actual exposure takes place for an established hazard as determined by the EDP/HDP committee.

E) Establishment of Environmental Differentials:

- 1) Environmental differentials are stated as percentage amounts and are authorized for categories of exposure. The amount of the environmental differential which is payable is determined by multiplying the percentage rate authorized for the described exposure by the second rate for grade WG-10 on the current regular non-supervisory wage schedule for the area, counting one-half (1/2) of a cent and over as a full cent. The resulting cents-an-hour amount is paid uniformly to each wage employee in the area who qualified for the authorized environmental differential, regardless of the grade level of the wage employee or the Federal Wage System (FWS) wage schedule on which the employee is paid.
- 2) Changes to categories indicated in the approved situations will be effected as they change in the CFR.

F) When EDP is Paid:

- 1) When an employee is entitled to an environmental differential which is paid on an actual exposure basis, he shall be paid a minimum of one hour differential pay for the exposure. For exposure beyond one hour, the employee shall be paid in increments of one-quarter (1/4) hour for each 15 minutes or portion thereof in excess of 15 minutes; e.g.; if an employee is exposed for 1 hour and 6 minutes, he will be paid EDP for 1 hour and 15 minutes. However, when more than one exposure occurs within the same hour, then the employee shall be paid only the exposure which results in the highest differential.
- 2) When an employee is exposed at intermittent times during the day to an unusually severe hazard, physical hardship or working condition for which the environmental differential is paid on an actual exposure basis, each exposure is considered separately and the amount of time exposed is not added together before payment is made for exposure beyond the one hour duration, except that pay for the environmental differential may not exceed the number of hours of active duty performed by the employee on the day of exposure.

- 3) When an employee is exposed to an unusually severe hazard, physical hardship or working condition for which an environmental differential is payable on a shift basis and on the same day he is exposed to an unusually severe hazard, physical hardship or working condition for which an environmental differential payable on an actual exposure basis at a higher rate is authorized, then the employee shall be paid the environmental differential on the basis of the actual exposure, and the environmental differential on the basis of the shift for the remaining hours in the pay status that day.
- 4) When an employee is exposed to a situation for which an environmental differential is authorized on the basis of hours in a pay status, the agency shall pay him the differential for all hours in a pay status on the day (calendar day or to avoid problems involving uncommon tours of duty and when designated by the agency, a 24-hour period) on which he is exposed to the situation.

G) Computing Environmental Differential Payments:

- 1) An environmental differential is paid in accordance with 5 CFR 532.511, either on the basis of actual exposure, or on the basis of hours in a pay status. A Federal Wage System employee who is exposed to a situation for which an environmental differential is authorized under 5 CFR 532.511 is entitled to the appropriate differential regardless of whether the employee has a full-time, part-time or intermittent tour of duty; on regular assignment or on detail; or serving under a temporary appointment or under an appointment without time limitation. However, to receive a differential, there must be actual exposure to the environmental condition. The following is given as an aid in computing environmental differentials:

For example, a technician whose regular tour of duty is 0800 to 1600, Monday through Friday, is exposed to situations for which a differential is authorized, as follows:

<u>Day</u>	<u>Hours Worked</u>	<u>% Rate</u>	<u>Differential Earned</u>
Monday	0830 to 0900	4	1 hour @ 4%
	0920 to 0930	4	0 (second exposure in same hour)
	1000 to 1130	25	1-1/2 hours @ 25%
	1200 to 1205	4	1 hour @ 4%
Tuesday	0800 to 0805	4	1 hour @ 4%
	0855 to 0925	4	30 minutes @ 4% (continuation of preceding hour)
	1000 to 1005	4	1 hour @ 25% (see following)
	1055 to 1110	25	15 minutes @ 25% (continuation of preceding hour)
	1114 to 1120	4	15 minutes @ 25%
Wednesday	0845 to 0900	4	1 hour @ 25% (pay for an hour at higher rate)
	0940 to 0945	25	
	1555 to 1600	4	1 hour @ 4% (1 hour of EDP; no overtime pay)
Thursday	1530 to 1730	4	1 hour @ 4% (even though entitled to 2 hours) (call-back overtime, only 1 hour of EDP)

Friday	0845 to 0850	4	1 hour @ 4%
	0900 to 1600		annual leave

2) Environmental differential pay during absences on leave:

- a. Environmental differential is included as part of an employee's base rate of pay for periods of paid leave (annual leave, sick leave, administrative excuses, etc.) under the following circumstances:
  - i. When an employee is exposed to a situation for which an environmental differential is authorized on the basis of hours in a pay status, that differential will be paid during the period of absence on paid leave on the day on which the exposure occurs.
  - ii. When an employee is exposed to a situation for which an environmental differential is authorized on an actual exposure basis, that differential will be paid during a period of absence on paid leave only to the extent that the leave is within the minimum payment periods of one hour's differential pay for the exposure or beyond that in increments of one-quarter-hour.
- b. An employee will not be paid an environmental differential during a period of absence on paid leave on any day in which he would not have been exposed to situations for which an environmental differential is authorized.
- c. Because an environmental differential is paid only on a day on which an employee is exposed to a situation for which the differential is authorized, it is not included in a lump-sum payment for annual leave or in computing severance pay.

3) Termination of EDP:

The Employer shall discontinue payment of EDP to an employee when:

- a. Safety precautions have reduced the element of hazard to a less than significant level of risk, consistent with generally accepted standards that may be applicable, such as those published by the Occupational Safety and Health Administration (OSHA), Department of Labor; or
- b. Protective or mechanical devices have adequately alleviated physical discomfort or distress.

**15-7 Documentation of EDP/HDP Exposure:**

- A) The supporting payroll office receives documentation of EDP/HDP by use of an NGB Form 104, Certificate of Authorization for Environmental Differential Pay, attached to time and attendance (T&A) cards as prescribed in DCPS pay manual. This process is required in order to calculate payments of EDP/HDP.
- B) Duration of exposure - List the date, inclusive clock time in the "From" and "To" columns, and actual elapsed time in hours and minutes of each category of exposure shown in the preceding column: e.g.; 1 January 1998; 1300-1525; 2 hours and 25 minutes.

The signature and title of the authorizing official must be officially designated for the particular situation in order to certify the exposure for pay purposes.

**ARTICLE 16**  
**TOOLS AND EQUIPMENT**

- A) Employees will be provided tools and equipment to complete assigned tasks.
- B) No personal tools will be utilized in Employer facilities.

**ARTICLE 17**  
**STANDBY/ON-CALL STATUS**

**17-1 Standby (Pay Status):**

An employee will be considered on duty and time spent on standby duty shall be considered hours of work if:

- A) The employee is restricted to an agency's premises, or so close thereto that the employee cannot use the time effectively for his or her own purposes or:
- B) The employee, although not restricted to the agency's premises:
  - 1) Is restricted to their living quarters or designated post of duty.
  - 2) Has their activities substantially limited so that the employee cannot use the time effectively for his own purposes; and
  - 3) Is required to remain in a state of readiness to perform work, and
  - 4) Is required to spend their time predominately for the benefit of the employer and is not simply waiting to be engaged; and
  - 5) May be administratively disciplined if they fail to respond and perform the duties required.

**17-2 On Call (Non-pay Status):**

- A) An employee will be considered off duty and time spent in an on-call status shall not be considered hours of work if:
  - 1) The employee is allowed to leave a telephone number or to carry an electronic device for the purpose of being contacted, even though the employee is required to remain in a reasonable call-back radius; or required to respond to their duty location within 2 hours.
  - 2) The employee is required to abstain from alcohol or other mind-altering drugs or medications.
  - 3) The employee is allowed to make arrangements such that any work which may arise during the on-call period will be performed by another person. Such arrangements must be coordinated with the substitute worker and the supervisor concerned.
  - 4) An employee may be excused from being on call only when receiving prior approval by their supervisor.
- B) The parties agree that, when required, an on-call rotational list shall be created for the purpose of covering on-call situations. If the Employer identifies a need to temporarily change an employee's existing on-call status, the Employer will first ask for qualified volunteers. Should no qualified volunteers be forthcoming, assignments shall be made on a rotational basis in a fair and reasonable manner determined by the employee's officer in charge. Those individuals assigned on-call status will normally be given a minimum of 5 workdays advance notice of the on-call schedule, except when the first O6 position in the chain of supervision, or the equivalent supervisory authority, determines that its operational capabilities will be seriously handicapped, costs would be substantially increased, or an emergency situation exists such that temporary changes to the on-call schedule are necessary. In such instances, the first O6 position in the chain of supervision, or the equivalent supervisory authority, may assign an employee to an on-call status without the required 5 workday notice.



**17-3 Time Deductions:**

Employees required to perform stand-by tours or work outside normal duty hours will receive compensatory time on an hour for hour basis less deductions for sleep periods and meal periods. In no case can sleep time be deducted from a tour of duty less than 24 hours.

**ARTICLE 18**  
**POSITION DESCRIPTION, CLASSIFICATION and DETAILS**

**18-1 Scope of Employment:**

Upon appointment, an employee will be assigned to duties in accordance with the employee's position description (PD). Each employee will be provided with a copy of the PD for the position to which assigned. When a new or revised PD is implemented the affected employee(s) will receive a copy. The employee PD prescribes the work relationships, scope, and principal duties.

**18-2 Other Duties as Assigned:**

Employees may, from time to time, be required to perform duties other than those reflected as principal duties of the PD. Generally, such tasks are related to the PD, however assigned duties may not be directly related to PD. Every effort will be made to assign work appropriate to the employee's classification. When an employee believes that other duties and responsibilities performed are significantly different from the assigned PD and they are performed on a regular basis, the employee may request that those duties be added to his/her PD.

**18-3 Appeals:**

An employee has the right to appeal the classification of the position to which he is officially assigned in accordance with applicable OPM procedures (such as the outcome of a desk audit). The employee shall receive upon request a copy of the applicable OPM procedures. An employee desiring to file a classification appeal may first discuss the matter with his supervisor. The employee may present the classification appeal or may select a representative of his own choosing to assist in preparing the written appeal. The Employer shall advise and assist employees on procedural aspects of filing classification appeals.

**18-4 Review of Position Descriptions:**

The Employer and the Association will encourage employees to periodically review their PD for the position they occupy and to report significant changes in responsibilities and duties to their supervisor. Changes to an official PD may be initiated by the employee in coordination with the supervisor or by the supervisor. The proposed changes must be forwarded to the HRO for review and approval.

**18-5 Additional Duties and Details:**

It is acknowledged that there are vacancies that exist from time to time that are not or cannot be filled due to management decisions. These duties may be distributed among the remaining workforce within the area of concern on a fair and reasonable basis. The Employer agrees that details should not be used to give an employee an unfair advantage in merit placement. The Employer will exercise its efforts in good faith, subject to requirements of efficient operations, to avoid establishing additional duty requirements that would create unnecessary hardships, potential health hazards or discrimination against any employee or group of employees. The Employer agrees to fill bargaining unit vacancies that impact bargaining unit members with additional duties and/or details as soon as possible.

**18-6 Definition of Detailing of Employees:**

- A) A detail is an official personnel action temporarily assigning an employee to a different established or pending position for a specified period of time, with the employee returning to the original position at the conclusion of the detail.

- B) Details are intended to meet temporary workload situations, absences of employees, pending authorization and classification of new positions or other types of manpower needs that cannot be met by normal personnel placement actions.

#### **18-7 Procedure:**

Details of employees out of their specialty should be limited to the extent necessary to accomplish the mission.

#### **18-8 Recording of Details:**

Details that are more than thirty (30) days, but less than one-hundred twenty (120) days to a different position, a SF 52 will be initiated showing the effective date and its not-to exceed date.

#### **18-9 Temporary Promotion:**

Normally, a temporary promotion is the appropriate way to meet a situation requiring the temporary service of an employee in a higher graded position. Promoting an employee recognizes the increased responsibility and properly compensates them for the work being performed.

- A) When the Employer requires the duties of a higher grade position, within the bargaining unit, to be performed for greater than one (1) pay period, the employee will be temporarily promoted rather than detailed.
- B) A SF 52 will be submitted and approved no later than the first working day of the temporary promotion. The SF 52 should be received by the Human Resources Office within 10 working days of the temporary promotion. If the temporary promotion is to last for a period of one-hundred twenty (120) days or longer, the Merit Placement and Promotion Article (Article 20) procedures will apply. Competition will be held from the onset if management feels that the position will be filled permanently.

#### **18-10 Clarification of Unit**

Any disputed Bargaining Unit Status (BUS) code will be addressed through the FLRA clarification of unit process.

**ARTICLE 19**  
**MERIT PLACEMENT AND PROMOTION**

**19-1 Policy:**

- A) This article establishes procedures and provides information for the Merit Placement Program covering bargaining unit employees in the Missouri National Guard. It is the policy of the Employer and the Association agrees that all Title 32 (T32) and Title 5 (T5) positions will be filled by the best qualified individuals available and to ensure that all employees have an opportunity to develop and advance to their full potential.
- B) All actions under this plan will be made without discrimination such as race, color, religion, sex, national origin, marital status, membership or non-membership in an employee organization, and age or non-disqualifying physical handicap (except for military requirement for T32 Dual Status (DS) employees).
- C) Any government-wide change to regulation or procedures relating to this article will take effect after appropriate Impact and Implementation bargaining is completed.

**19-2 Objectives:**

- A) This article will be used for filling bargaining unit vacancies that the Employer elects to fill in the Missouri National Guard and will be used for promotions and competitive reassignments.
- B) To present for the Employer's consideration qualified applicants.
- C) To give employees opportunity to receive fair and appropriate consideration for jobs, to ensure maximum utilization of employees, to provide an incentive for employees to improve their performance and develop skills, knowledge, and abilities and to provide attractive career opportunities for employees.

**19-3 Employee Responsibilities:**

Employees are responsible for ensuring that applications are accurate and complete.

**19-4 Exception to Competitive Procedures:**

- A) Promotion due to issuance of new classification standard or the correction of a classification error.
- B) Placement of over graded employees entitled to grade retention as a result of Reduction in Force (RIF), reclassification or management directed change-to-lower grade.
- C) Promotion when competition was held earlier (i.e.; position advertised with known promotion potential.)
- D) Re-promotion to a grade or an intervening grade or position from which an employee was demoted without personal cause and not at his request.
- E) Promotion resulting from an employee's position being reclassified at a higher grade because of additional duties and responsibilities.
- F) Position change to a position having no higher promotion potential.
- G) Position change required by RIF regulations and this agreement.

- H) Temporary promotion of 120 days or less in a 12 month period.
- I) Detail to higher graded position or to a position with known promotion potential for 60 days or less.
- J) Selection of a former employee from the Re-employment Priority List for a position at the same or lower grade than the one last held.
- K) Placement as a result of priority consideration when a candidate was not previously given proper consideration in a competitive action.

**19-5 Indefinite Positions:**

- A) When the Employer determines that a current or new position will be advertised as an indefinite position, the parties agree a temporary promotion may be considered in lieu of an indefinite advertisement.
- B) Should the indefinite position subsequently be converted to permanent position, the incumbent may be converted to permanent status without further competition if the position was advertised with the right to convert and the employee received the indefinite position through the competitive process.
- C) When advertising indefinite positions, the Employer may allow, on a case by case basis, the employee to retain his permanent status, if selected. If management cannot allow retention of permanent status, the employee will sign a letter of understanding that he is aware of the indefinite status and the change in his tenure.

**19-6 Vacancy Announcements:**

- A) As a minimum, the vacancy announcement will contain the following information:
  - 1) Title, series, grade, and salary range of the position.
  - 2) Type of appointment T32 or T5.
  - 3) Military requirements – (Officer, Warrant Officer, Enlisted) and compatibility requirements for T32 DS positions, with consideration paid to grade inversion.
  - 4) Summary of duties and minimum qualification, general and specialized experience requirements.
  - 5) Organization and geographical location of the position.
  - 6) Information regarding known promotion potential, if any.
  - 7) Opening and closing date.
  - 8) Equal Employment Opportunity statement.
  - 9) Occupational Questionnaire by which applicants will be rated for the position.
  - 10) Positions that allow applicants at the trainee level are noted on the advertisement.
  - 11) How to apply.
  - 12) Areas of consideration.
  - 13) Selection Placement Factors: Any special job requirements, e.g.; security clearance, driver's

license, pre-employment physicals.

- B) Where the position can be T32 or AGR, the Employer may advertise both simultaneously.

**19-7 Vacancy Posting:**

Vacancy announcements will be advertised on the Employer web site for a minimum of twenty (20) calendar days. Weekly Job Listings will be posted on official bulletin boards at all Air Guard installations and Army Guard units to include (FMS's, CSMS, AVCRAD, and AASF's).

**19-8 Area(s) of Consideration:**

- A) Minimum areas of consideration for T32 or T5 positions will be established by the supervisor. The minimum areas may be established by organization, by occupation, grade level, geographic location, military grade level, or by another means that will meet the Employer needs and afford employees adequate opportunities for advancement. The area of consideration may be advertised in multiple categories simultaneously.
- B) Although an applicant may or may not be required to hold a specific AFSC or MOS to apply for a position, the employer retains the right in determining position qualifications to require the applicant to hold a specific AFSC or MOS in order to be deemed qualified.

**19-9 Referral Categories:**

The referral categories for each specific position vacancy announcement will be in the following manner and sequence:

Category 1: All permanent Missouri National Guard T32 or T5 employees.

Category 2: All others.

Although the positions may be advertised to more than one category simultaneously, Category 2 will not be submitted to the selecting official for consideration until all qualified bargaining unit employees have been interviewed.

If the employee selection was not chosen from Category 1, at the Labor Organizations request, written justification will be provided regarding why the selection did not come from Category 1.

**19-10 Application Procedures:**

- A) An occupational questionnaire, resume and supporting documents are the basic documents by which the individual's qualifications for the position are determined. These documents must, therefore, reflect the applicant's current and past employment data as well as military duty assignments, qualifications, and training relevant to the requirements as outlined in the vacancy announcement. Complete and accurate data is essential to ensure fair evaluation of candidates. Any changes in the application procedure made by the contractor or the Employer will be announced to the Labor Organization prior to implementation as well as to all employees via the Human Resources bulletin. Procedures for application are announced in all vacancy announcements.
- B) Absent employees may have applications submitted for them.

**19-11 Establishment of the Occupational Questionnaire:**

The Occupational Questionnaire required for the position to be filled will be prepared by the HRO prior to the advertisement of the position. The HRO may consult with the selecting official regarding the

preparation and determination of the Occupational Questionnaire as well as National Guard Bureau (NGB)/Office of Personnel Management (OPM) requirements, as applicable.

#### **19-12 Processing Applications:**

Applications submitted using the automated procedure will be accepted until midnight (eastern time) on the closing date. The HRO will evaluate the application to determine that the applicant meets the basic qualifications of the advertised position. The Occupational Questionnaire and resume are used in the rating and ranking process. Applicants must meet the minimum qualifications established for the position including any selective placement factors. Applicants who do not meet the minimum qualifications will be notified by the HRO as to the reason for such determination.

#### **19-13 Rating:**

All applicants will be rated in descending order by category. Applications are rated based upon their resume and occupational questionnaire.

#### **19-14 Evaluating and Ranking Applications:**

This section applies to the evaluation and ranking of applicants for positions in the Missouri National Guard. The Occupational Questionnaire and resume gives recognition to the individual's knowledge, experience in the career field, and participation in training programs related to the announced position. This is done through a comparison of experience with the duties and responsibilities of the announced position.

#### **19-15 Referral of Candidates:**

##### **A) Title 32:**

- 1) Following the evaluation of candidates, HRO will refer the candidates to the selecting official by category. If there are more than nine (9) candidates, the first nine (9) candidates of the Category 1 certificate will be referred first. If the selecting supervisor does not select a candidate from the first nine (9), the next nine candidates in Category 1 (all remaining if less than nine (9)) will be forwarded to the selecting official. Subsequent certificates will not be given to the selecting official until all applicants on previous certificates have been interviewed, and given fair consideration. The selecting official will notify HRO in writing (or electronic equivalent) that all candidates have been interviewed and considered. Candidates will be listed in order of ranking (i.e.; 1-9) within their respective category of consideration, if applicable. Applications and supporting documents submitted by candidates will also be forwarded to the selecting official. There will be no indication, verbal or written, to the selecting official to the existence of subsequent certificates.
- 2) If nine (9) or less qualified applicants are received, all qualified applicants will be certified to the selecting official, by category. There will be no indication, verbal or written, to the selecting official to quantity or quality of candidates on other subsequent certificates.

##### **B) Title 5: Candidates will be evaluated and referred in accordance with 5 USC 3320, 5 CFR and OPM Veteran Guide.**

- 1) If there are more than nine (9) eligible candidates, the first nine (9) candidates will be referred first. If the selecting supervisor does not select a candidate from the first nine (9), the next nine qualified candidates (all remaining if less than nine (9)) will be forwarded to the selecting official. Subsequent certificates will not be given to the selecting official until all applicants on previous certificates have been interviewed, and given fair consideration. The selecting official will notify HRO in writing (or electronic equivalent) that all candidates have been interviewed and considered. Candidates will be listed in order of ranking (i.e.; 1-9) within their respective category

of consideration, if applicable. Applications and supporting documents submitted by candidates will also be forwarded to the selecting official. There will be no indication, verbal or written, to the selecting official to the existence of subsequent certificates.

- 2) If nine (9) or less qualified applicants are received, all qualified applicants will be certified to the selecting official. There will be no indication, verbal or written, to the selecting official to quantity or quality of candidates on other subsequent certificates.
- C) Certificates of eligibility are valid for 90 days from the date of issuance. The Employer may make additional selections(s) from a valid certificate provided the position is the same title, series, grade, selecting official, in the same geographic location, and qualification requirements for the additional selection(s) are the same as the position originally announced.

#### **19-16 Selecting Official Actions:**

- A) Selecting officials have the right to select or not select any of the candidates referred to them and will provide for a fair and impartial interview. Co-workers, will not be used on the interview panel.
- B) If personal interviews are not possible, telephone interviews may be conducted. This provides another means of evaluating and comparing and gives eligible candidates a chance to discuss the position and their qualifications.
- C) Ensure employees hired in a trainee status are informed of the approximate duration of the training necessary to become fully qualified.
- D) If, for some administrative reason, the selection process cannot be completed, the selection package will be returned to the HRO.
- E) After the selection has been made, upon request, the selecting official will verbally brief those non-selectee(s) who wish to know why they were not selected.
- F) If the job was advertised to multiple grades (i.e.; GS-11, 09, 07) and the selecting official selects a less than fully qualified candidate, written rationale will be given to HRO. Upon request, the HRO will provide rationale to the Association.

#### **19-17 HRO Action:**

- A) Notify the employees of the selection.
- B) Notify those candidates that were not on the referral certificate.
- C) Non-selected bargaining unit members will be sent their "applicant status response form" by the most cost effective means available.
- D) If the Association receives a complaint in writing concerning the selection process, the Chapter President or Vice President, shall be given 10 work days to review the selection package.
- E) If the Association finds that there are discrepancies in the selection process, the placement may be delayed for 30 days. The Association will notify the Labor Relations Specialist in writing, identifying specific perceived discrepancies with the selection process.

#### **19-18 Placement/Promotion Records:**

Sufficient records IAW applicable law, rule, and regulation, or any changes thereto, required to allow reconstruction of the placement action are to be maintained for a minimum of two years. If a grievance is



pending, records will be maintained until resolution of said grievance or the two years, whichever is longer.

**19-19 Grievances:**

An employee who believes that the proper procedures were not followed, or another requirement was not met, in the placement process for which they were an applicant, may file a grievance in accordance with the grievance procedures as outlined in this agreement. A grievance will not be considered when it is based solely on non-selection.

**ARTICLE 20**  
**PERFORMANCE APPRAISAL SYSTEM**

**20-1 Introduction:**

The Missouri National Guard's performance appraisal system will be administered in accordance with applicable laws, rules, and regulations, or any changes thereto. Where performance measurement is a factor in a personnel action, appropriate consideration will be given to the performance appraisal. The performance appraisal system shall be used to encourage enhanced communications between the supervisors, customers, peers, and employees; encourage the achievement of the organization's goals; and recognize, motivate, and enhance individual and organization performance and accomplishments.

**20-2 Definitions:**

For the purpose of this Article, the definitions of various performance related terms will be in accordance with applicable law, rule, and regulation, or any changes thereto.

- A) Annual Performance Rating of Record - The performance appraisal rating assigned to an employee at the end of the appraisal period.
- B) Performance Improvement Plan (PIP) - A document used by management to establish an opportunity for an employee to improve unacceptable performance.

**20-3 Policy:**

- A) All Employees must be periodically apprised of the performance elements for their position through the use of objective performance standards.
- B) Annual performance appraisals, along with other pertinent information, will be used as a basis for developing, assigning, promoting, demoting, retaining, or separating employees, as well as assisting employees in improving performance.
- C) The parties agree that the appraisal process is more than a once a year meeting during which performance over the last year is evaluated. Thus, the final appraisal action will not be a surprise to the employee.

**20-4 Performance Plan/Standards:**

- A) Performance plan/standards will be established for all covered employees.
- B) Each supervisor with the employee's participation will, at the beginning of the appraisal period, identify the major and critical job elements for the employee's performance plan/standards. Supervisors and managers will assure that employees understand clearly what their performance standards are and that performance is rated in a timely manner.
- C) Performance Plan/Standards, must:
  - 1) Be prepared by the appropriate supervisor and the employee, and contain written standards and duties that are expected of the employee within the employee's PD and daily scope of duties.
  - 2) The performance plan shall include all critical elements and if used, non-critical elements.
  - 3) Have each element defined. Each element shall be "stand alone" for the purpose of rating an employee and will reflect duties described in the PD. Critical elements shall be written to the

“Fully Successful,” level. “Unacceptable” performance is that which fails to meet established standards in one or more critical elements.

- 4) Be reviewed and concurred with by the appropriate higher level official.
  - 5) Comply with 5 USC 4302(b)(1), and any changes thereto. For information, 5 USC 4302(b)(1) states: Under regulations which the Office of Personnel Management shall prescribe, each performance appraisal system shall provide for establishing performance plan/standards which will, to the maximum extent feasible, permit the accurate evaluation of job performance on the basis of objective criteria related to the job in question for each employee or position under the system.
  - 6) Performance plan/standards shall be rewritten as necessary to comply with 5 USC 4302(b)(1), and any changes thereto. A copy of any change shall, on or before the effective date of the change, be provided to any employee affected by the change. Each employee affected by the change shall be afforded opportunity to acknowledge notice of the change by signing and dating a copy of the change. An employee who signs and dates a copy of the change promptly shall be provided by the agency a copy of the change showing the signature and date written by the employee.
  - 7) Be communicated to the employee verbally and in writing within 30 days of the employee entering a new job, detail, or a temporary promotion scheduled to last 120 days or more.
  - 8) The employee, through participating in this process, will provide input to their Performance plan/standards with final determination being made by the appropriate supervisor with the concurrence of the next level supervisor. When a supervisor and employee cannot agree on critical job elements and/or performance plan/standards, the reviewer in coordination with the employee and the rater will resolve any disagreement.
- A) Periodic Progress Reviews:
- 1) The appropriate supervisor shall conduct a midterm progress (interim) review with the employee using the required process in accordance with applicable laws, rules, and regulations.
  - 2) When an employee's performance on one or more critical elements during the review process is determined to be at the “Unacceptable” level, the supervisor must issue a PIP in order to give the employee a reasonable opportunity to achieve a “Fully Successful” level. (See Section 20-8 below)

#### **20-5 Appraisal Period:**

- A) Employees will be given a performance appraisal annually in accordance with applicable law, rule, and regulation, or any changes thereto.
- B) Employees will receive an appraisal under their old job standard when transferring jobs, at the time of the transfer, provided a minimum of 120 days has elapsed since the previous appraisal.
- C) When new critical elements are assigned, those critical elements must communicate that portion of a major performance expectation that can be accomplished within the time remaining in the appraisal period. Critical elements may not be added or changed 120 days prior to the end of the appraisal period.
- D) Annual performance appraisals shall be processed and communicated to all covered employees within 30 days after the completion of the appraisal cycle. Employees are encouraged to provide a self- assessment for each critical element covering their performance. To facilitate completion of this

self- assessment, employees are encouraged to maintain a personal record of their accomplishments, achievements and performance throughout the appraisal period. An “unacceptable” rating in one or more critical elements will result in an overall “unacceptable.” An annual performance appraisal may be postponed in accordance with applicable laws, rules, and regulations, or any changes thereto.

- E) If the employee experiences a problem in receiving a timely performance evaluation or suspects an irregularity with any aspect of the performance evaluation process, that employee is entitled to bring the matter to the supervisor’s attention, contact the HRO performance system POC, or the Association.
- F) Appraisals will not be backdated. If an appraisal cannot be performed on time, the employee will be notified in writing by the supervisor. This notification will include an explanation for the late appraisal. When the late appraisal is accomplished, the actual date will be so noted.

#### **20-6 Appeals/Grievance:**

- A) Employees not agreeing with their performance appraisal may grieve the matter under the negotiated grievance procedure, or appeal their performance evaluation within thirty (30) working days, after receipt from the reviewer, through the State review and appeal process in accordance with applicable laws, rules, and regulations, or any changes thereto, but not both. The Review and Appeals Board may consist of (at least three) members to provide an impartial review on performance appraisal appeals. At the Adjutant General’s discretion, members of the Review and Appeals Board may include, but not limited to management officials, Association officials, and peers of the employee. It is important to, have fair representation from management as well as the Association on the Review and Appeals Board.
- B) Employees may grieve the application of performance standards that are inconsistent with law, rule, or regulation.

#### **20-7 Association Officials:**

The time spent away from the assigned job by Association representatives in the performance of their representational duties should not be taken into account when accomplishing a performance appraisal. But rather, the performance appraisal should be based solely on performance of their officially assigned work.

#### **20-8 Performance Improvement Plan (PIP):**

- A) The formal PIP is initiated by the employee’s supervisor after consultation with the Human Resources Office and legal counsel, if appropriate. The employee’s supervisor may initiate such action if the employee has been afforded a reasonable opportunity during a period of no less than 90-120 days to perform the critical elements in their performance plan; the supervisor has made reasonable informal efforts to obtain acceptable performance; and despite these reasonable informal efforts the employee’s performance has remained below the Level 3 rating in one or more critical elements. The supervisor is not required to wait until the end of the appraisal period to initiate these actions. A reassignment action may be accomplished anytime during the PIP.
- B) 30-Day Written Notice Requirement. Should a determination be made to do a reduction in grade, or remove the employee from employment following the formal PIP, an employee is entitled to a minimum 30- day advance written notice of the action to be taken (reduction in grade or removal), which documents instances of unacceptable performance in detail, on which the action is based. The reviewing official must concur with this advance written notice. This requirement does not apply when the action is being taken by the Adjutant General. This is not a proposed notice, but is considered a final notice of the action to be taken since prior to the final step the employee would have been given

adequate assistance and time to improve performance. The 30-day requirement does not apply to trial/probationary employees.

- C) Any time an employee is performing at an unacceptable level, including the proposed assignment of a Level 1 rating of record, timely and appropriate management action is critical.
- D) Determine and Clearly Define Unacceptable Performance. When addressing unacceptable performance, the supervisor shall identify and communicate to the employee the specific critical element and performance standard(s) that require improvement.
  - 1) Consideration of Circumstances. When determining what corrective action should be taken to address unacceptable performance, supervisors will take into account the circumstances, including the nature and gravity of the unacceptable performance and its consequences. Supervisors may also take into account knowledge deficiencies, as applicable.
  - 2) Range of Options to Address Unacceptable Performance. Supervisors will address unacceptable performance with one or more remedial, corrective actions that address the problem. Supervisors should consider the broad range of options available to address unacceptable performance which includes, but is not limited to, the following:
    - a. remedial training,
    - b. an improvement period,
    - c. a reassignment,
    - d. change to lower grade,
    - e. removal.
- E) If an employee fails to meet expectations on a different critical element, a new PIP will be issued which is not connected with the previous PIP.
- F) Unacceptable ratings (Level 1) require justification and documentation to be approved at the next higher level. A formal PIP is required when a Level 1 rating is given. The supervisor will specify, in writing, the deficiencies, outline the methods for improvement, and establish a reasonable time (30 to 90 days) for improvement.

## **ARTICLE 21**

### **RECOGNITION**

#### **21-1 Purpose:**

The Missouri National Guard Recognition System is designed to motivate employees to increase productivity and creativity and to achieve greater efficiency, economy, and improvement of operations. It provides a method for rewarding those whose job performance and ideas are substantially above normal job requirements and performance standards, and provides for consideration of performance contributions throughout the Missouri National Guard. The recognition system is supported by the Employer and will be administered in accordance with applicable laws, rules, and regulations, or any changes thereto.

#### **21-2 Categories of Awards:**

- A) Suggestion Awards
- B) Invention Awards
- C) Special Act or Service Awards (e.g.; Time Off Award, On-the-Spot Cash Award)
- D) Sustained Superior Performance (SSP) Awards
- E) Quality Step Increases (QSI)
- F) Length of Service Recognition
- G) Honorary Awards and other methods of recognition

#### **21-3 Nomination:**

Any employee having direct knowledge of a special act or service resulting in savings and/or benefits to the Missouri National Guard may recommend awards to the appropriate supervisor for submission in accordance with applicable laws, rules, and regulations, or any changes thereto.

#### **21-4 Other Methods of Recognition:**

Letters of appreciation or commendation may be granted by supervisors for specific instances of above-standard performance or work achievements by an individual employee or a team of employees that warrant special recognition but does not meet the criteria for a special type award.

#### **21-5 Honorary Awards:**

The civilian awards listing in the most current applicable law, rule, or regulation will be the exclusive awards given for employee accomplishments when an honorary award is warranted.

#### **21-6 Incentive Awards Committee:**

Incentive Awards Committees will be established by the Employer and will serve all employees in the state. The Employer agrees to establish a committee that will include one (1) Army and one (1) Air representative from the Association.

**21-7 Awards Disbursement:**

Awards program should be a fair program. Personnel receiving monetary awards should be in direct correlation between the number of bargaining unit employees versus management.

**21-8 Sustained Superior Performance Award Rate:**

The award rate for an SSP will be determined by the initiating supervisor. This amount may be up to 5% of the individual's base salary.

**21-9 Payment of Approved Suggestion Awards:**

Payment of approved suggestion awards will be IAW applicable laws, rules, and regulations, or any changes thereto.

**21-10 Presentation of Awards:**

Awards shall be presented in an open forum to provide incentive among peers and provide transparency for the awards program.

**ARTICLE 22**  
**REDUCTION-IN-FORCE**

**22-1 General:**

The Adjutant General is responsible for implementing a reduction in force.

**22-2 Procedures:**

Procedures relating to reduction in force will be governed by applicable laws, rules, and regulations, or any changes thereto.

**22-3 Definitions:**

- A) Reduction-in-Force (RIF) - A RIF occurs when an employee is released from a competitive level by separation, change to lower grade, furlough for more than 30 calendar days, or reassignment of employees to other positions which involve the displacement of the incumbent. Reductions may occur because of lack of work or funds, reorganization, abolishment of positions, transfer of function or the need to provide a job placement for a former employee exercising restoration rights. Termination of temporary appointments or temporary promotion; furlough for less than 30 days; or reclassifications (unless part of reorganization) are not considered RIF actions. Unless directed by NGB, the decision to implement a RIF will be made by the state Adjutant General.
- B) Competitive Areas - The boundary within which employees compete for retention and receive placement offers. A competitive area may be defined in terms of organization and/or geographical location. It may be restricted to the commuting area or one organization or expanded to cover the entire state. The area may also include both the ARNG and the ANG or be restricted to one service. The competitive area should be identified during advance planning for RIF.
- C) Competitive Levels:
  - 1) A competitive level consists of all positions within a competitive area, which are in the same grade and are so alike in qualification requirements, duties and responsibilities that the incumbents can be moved from one position to another without undue interruption to the work program.
  - 2) Supervisory positions will not be placed in the same competitive level as bargaining unit employees, unless the placement will not adversely affect a bargaining unit employee.
  - 3) Non-bargaining unit employees will not compete with bargaining unit employees for bargaining unit positions.
- D) Tenure Groups - Employees are divided into three (3) Tenure Groups:
  - 1) Group I: Employees under permanent appointment who are not serving on probation or trial periods.
  - 2) Group II: Employees serving on probation or trial periods.
  - 3) Group III: Employees under indefinite appointments in the excepted service.
- E) Release procedure - When a RIF requires the release of one or more competing employees from a competitive level, all employees in Group III are selected for release before any in Group I or II, and all in Group II before any in Group I. At that point retention registers will apply.



- F) Retention Registers: A record that lists employees in descending order, within their competitive levels. They shall be classified on a retention register on the basis of their tenure of employment, length of service, and performance in descending order as follows:
- 1) Voluntary RIF's: Prior to issuing specific written notices voluntary RIF's shall be sought among the bargaining unit within the competitive area to reduce the overall impact.
  - 2) Once authority for a reduction in force has been received, receipt of a new performance appraisal will not affect the employees standing in the current reduction in force.
  - 3) By tenure Group I, Group II, Group III, and
  - 4) Within each Group by years of service as augmented by credit for performance beginning with the earliest service date (Service Computation Date).

Additional service credit for performance shall be expressed in additional years of service based on the mathematical average of the employee's three most recent performance ratings within the last four years.

- a. Five years for each Acceptable rating or missing rating
  - b. Zero years for each Unacceptable rating
- 5) Employees with an overall performance rating of "Unacceptable" or those that are on a Performance Improvement Plan (PIP) at the time a General Notice is posted, may only compete with or displace other employees with "Unacceptable" performance appraisals or those on a PIP.

#### **22-4 HRO Responsibilities:**

- A) Meet with the Association to explain the need for a RIF and upon request, provide all documents and correspondence relative to the RIF action. The parties will then negotiate the appropriate procedures to be used in accordance with this article.
- B) After negotiation with the Association, notification of the RIF to the work force will be in the form of a posted written general notice as far in advance as possible. The general notice will contain as a minimum:
- 1) The established competitive area.
  - 2) The established date all appraisals are to be/have been frozen.
  - 3) The date personnel actions are frozen, i.e.; reassignments, promotions, hiring, etc..
  - 4) POC for counseling.
  - 5) Established date and times for appropriate briefings, etc.
  - 6) Whether or not voluntary RIFs will be accepted.
- C) Screen the manning documents to determine which vacancies will be needed for placement action.
- D) The parties agree to develop an aggressive placement program to include contact with other states, local federal activities, local government and private Employers.
- E) A specific written notice will be given to each affected employee to be RIF'd at least 60 days prior to the effective date of the action. The 60 days advance notice period may be shortened in the event the

RIF occurs as a result of unforeseen circumstances. This notice will state specific actions and known alternatives to be offered to the individual. The following information, as applicable, is to be included when preparing a specific notice of RIF.

- 1) Reason for the reduction.
- 2) Specific action to take place (e.g.; separation, furlough, offer of change to lower grade, etc.).
- 3) Title, grade, and salary of current position.
- 4) Competitive area and competitive level designated.
- 5) Service computation date, employee service date, and retention rating.
- 6) The position title, grade, salary, and location of any position offer or the reason why no offer can be made. Also, include the military grade requirements.
- 7) Reasons for any exceptions to retention order.
- 8) Effective date of proposed RIF (other than 15 December through 3 January).
- 9) Where the employee may review retention registers and RIF regulations and the HRO personnel specialist to contact for information.
- 10) Appeal rights, how to file them and any time limits imposed.
- 11) A clear explanation of the employee's grade and/or pay retention entitlement.
- 12) Severance pay eligibility.
- 13) Placement information and eligibility for reemployment priority list.
- 14) Discontinued service retirement eligibility.
- 15) A request for the employee to acknowledge receipt of the notice and to accept or decline any offer.

**22-5 Placement Action:**

- A) The Employer will take positive action to assist employees affected by RIF or transfer of function to be placed within the Missouri National Guard.
- B) Placement assistance will also include contacts with other states, local federal activities, local government and private Employers.
- C) Reemployment Priority List - A reemployment priority list must be maintained for tenure Groups I and II employees separated in a RIF. Upon receipt of a specific notice of separation, employees will be placed on this list, but only if they have not declined an offer that preserves a non-temporary, full-time position in their present grade, step, or equivalent salary. Employees will remain on this list for two (2) years, unless they decline in writing, accept a full-time position, or decline the offer of a full-time position in the Federal Government.

**22-6 Appeals:**

- A) A competing employee may appeal to the Adjutant General when he has received a specific notice of

RIF, and he believes that the Employer incorrectly applied the provisions of this contract Article, or applicable law, rule, or regulation.

- 1) An appeal may be submitted upon receipt of a specific notice, but no later than thirty (30) calendar days before the effective date of the action.
  - 2) The appeal must be in writing and must include the following information: Name, SSAN, position title, series and grade, PD control number (PDCN) and the place of employment.
  - 3) The appeal must clearly state the reason the employee believes the action affecting him/her is inappropriate, and must show that the Employer failed to comply with the RIF procedures outlined in this Article (e.g.; insufficient notice, improper tenure grouping, and errors in service computation date).
- B) Extension of Time Limit - The Adjutant General, or designated representative, will evaluate and consider an extension of the appeal time limit when the employee indicates that he was not notified of a time limit and otherwise was not aware of it, or that circumstances beyond his control prevented him from appealing within the time limit.
- C) Decision on Appeal - The Adjutant General, or designated representative, will issue a written decision and, where applicable, direct the HRO to take any necessary corrective action. A copy of the decision stating what corrective action will be taken is then forwarded to the employee. The decision of the Adjutant General is final and there is no further right or appeal. A copy of the decision issued by the Adjutant General will be furnished to all interested parties.
- D) Corrective Action - The decision of the Adjutant General may require the HRO to take corrective action as follows:
- 1) Correct the retention register.
  - 2) Correct the employee's specific notice.
  - 3) Restore the employee to his former grade/pay level or one of like seniority, status, and pay when the employee was reduced or separated improperly.
  - 4) Reimburse the employee for all pay lost as a result of any improper RIF action.

When an employee's appeal uncovers an error that does not change the outcome of the RIF, the Adjutant General, or designated representative, will correct the error without requiring restoration or recall of the employee or employees involved.

**ARTICLE 23**  
**ATTENDANCE AND LEAVE**

**23-1 Policy:**

Annual leave, sick leave, leave without pay and administrative leave will be administered in accordance with applicable laws, rules, or regulations. If an employee works a scheduled shift for which a differential pay is authorized, any approved paid leave taken during that scheduled shift shall include a continuation of differential pay. Any changes in Federal Government or DoD agencies' leave entitlements will be addressed through I&I bargaining in accordance with Article 12.

**23-2 Annual Leave:**

- A) The Employer agrees to administer a fair and reasonable leave policy. Every reasonable effort consistent with the workload will be made to schedule annual leave in such a manner that employees are afforded at least two consecutive weeks of their available leave during each calendar year.
- B) It is the responsibility of both the employee and the leave approving official to ensure that an employee will not lose annual leave due to expiration of the leave year. If the leave approving official deems it necessary to cancel previously approved leave, the employee will be notified in writing as soon as the requirement for such cancellation is known.
- C) Annual leave should be requested in advance of the desired time when possible. If the approving official deems it necessary to deny annual leave, the SF 71 will be annotated stating the reason the leave was denied.

**23-3 Sick Leave:**

- A) The agency shall grant sick leave to an employee when the employee:
  - 1) Receives medical, dental or optical examination or treatment.
  - 2) Is incapacitated for the performance of duties by physical or mental illness, injury, pregnancy or childbirth.
  - 3) Provides care for a family member who is incapacitated by a medical or mental condition or attends to a family member receiving medical, dental, or optical examination or treatment.
  - 4) Provides care for a family member with a serious health condition.
  - 5) Makes arrangements necessitated by the death of a family member or attends the funeral of a family member.
  - 6) Would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by his presence on the job because of exposure to a communicable disease; or
  - 7) Must be absent from duty for purposes relating to the adoption of a child, including appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; and any other activities necessary to allow the adoption to proceed.
- B) Medical certificates, or documentation, may be required under the following conditions:
  - 1) Management may consider the employee's self-certification as to the reason for his absence as administrative acceptable evidence, regardless of the duration of the absence. Management has the discretion, under 5 C.F.R. 630.405(a) to require medical documentation when necessary.

When management determines that medical documentation is required to approve requested sick leave it will notify the employee in writing of the requirement. The notification should describe what medical documentation is acceptable and provide the reason the medical documents are required. The preceding sentence is not meant to restrict the employer's right to require medical documentation when justified but to help prevent harassment or discrimination in the employer's enforcement of sick leave regulations.

- 2) The employee must provide administratively acceptable medical documentation for a request for sick leave no later than 15 calendar days after the date management requests such medical certification. If it is not practical under the particular circumstances to provide the requested evidence or medical certification within 15 calendar days after the date requested by management despite the employee's diligent, good faith efforts, the employee must provide the evidence or medical certification within a reasonable period of time under the circumstances involved, but no later than 30 calendar days after the date management requests such documentation. The employee who does not provide the required evidence or medical certification within the specified time period is not entitled to sick leave.
- C) It is the responsibility of an employee who is incapacitated for duty to report or if too sick to do so to have some responsible person report his illness as soon as possible to the supervisor or designee. This must be accomplished no later than one hour after the employee is scheduled to report for duty unless there are mitigating circumstances. An employee who expects to be absent more than one day shall inform the supervisor of the approximate date of return to duty, if possible.
- D) When sickness occurs during a period of annual leave, the supervisor may change the leave status to sick leave, upon the request of the employee, for any of the purposes described under this section. The supervisor will be notified, in accordance with Paragraph C above, of the request to change leave status.
- E) Any request for advanced sick leave must always be accompanied by a medical certificate (advance in this case means sick leave over and above the employee's sick leave balance).

#### **23-4 Family Medical Leave Act (FMLA) and Paid Parental Leave:**

Family Medical Leave and Paid Parental Leave will be administered in accordance with applicable laws, rules, and regulations, or any changes thereto.

#### **23-5 Administrative Dismissal:**

- A) The Employer shall make every reasonable effort to ensure the health, safety and well-being of employees.
- B) The closing of a National Guard activity for any period will be in accordance with the Adjutant General's administrative dismissal policy.
- C) All employees will be considered non-essential personnel unless otherwise designated by management. Administrative leave is permissive and not an entitlement, but may be granted because of inclement weather, other emergency or acts of God situations. All employees who are scheduled for work, and whose services are not required, may be given administrative leave by the Employer under these circumstances.

#### **23-6 Excused Absence:**

- A) Excused absence is an absence from duty authorized by the Employer without loss of pay or without charge to annual leave. The authority to grant administrative leave is within the discretion of the Employer.

- B) The Employer may authorize excused absence for any appropriate purpose, including, but not limited to, the following:
- 1) Registration and Voting - Generally, employees are excused from duty to permit them to report for work 3 hours after the polls open or to leave work 3 hours before the polls close, whichever results in the lesser amount of time off.
  - 2) Military Funerals - To participate, up to four hours in any one day, while performing in State active duty status as pall bearers or as members of firing squads in funeral ceremonies for members or retired members of the National Guard.
  - 3) Blood/Platelets Donations - Employees are encouraged to serve as blood donors and may be excused from work without charge to leave for the time necessary to donate blood, for recuperation following blood donation, and for necessary travel to and from the donation site. The time normally will be four (4) hours, except in unusual cases.
  - 4) Bone Marrow/Organ Donation - Employees are entitled to take up to thirty days of paid leave in a calendar year to serve as a bone marrow or organ donor.
  - 5) Volunteer Activities - To serve as a volunteer firefighter, ambulance crewmember, law enforcement official or a not for profit organization.
    - a. When an employee performs volunteer duties as a certified firefighter, ambulance crewmember, or a commissioned law enforcement officer, excused absence may be authorized, not to exceed one (1) day per incident, providing the emergency incident began prior to the beginning of the employee's normal workday and the actual hours of volunteer service performed are certified in writing by the individual in charge at the emergency incident. When the emergency incident is found to be under control and the employee's continued presence is no longer needed, an additional one (1) hour time period, plus commuting time, may be authorized prior to reporting to the workplace. The employee will, through another family member or co-worker, make every reasonable attempt to inform his supervisor of any such participation in an emergency incident.
    - b. If an emergency incident occurs during normal duty hours, an employee may, subject to supervisory approval, depart from the workplace to assist in an emergency incident. Any such approved departure will consist of the remainder of the duty day if determined to be required.
    - c. Employees may be excused for short periods to participate in not for profit organizations the Federal Government (including the National Guard) is interested in encouraging.
  - 6) Conferences/Conventions: Administrative leave may be authorized for National ACT, NGAUS and ENGUS conferences or conventions.
  - 7) Initial counseling and assessment for the Employee Assistance Program (EAP). After the initial session, the employee must be in an appropriate leave status.
  - 8) Physical Examinations. Examinations are required as a condition of employment in the National Guard. Employees will be excused, without charge to leave or loss of pay, for periodic, baseline, or annual physical examinations as required by the military commander, HRO or safety. Excused leave is also authorized for physical examinations required for military membership taken during regularly scheduled tour of duty hours. This will also apply for dental examinations required for military duty.

**23-7 Duty Status:**

Employee Personnel Actions - Employees will not be charged leave when interviewing for intra agency positions, nor when reviewing the OPF's.

**23-8 Military Leave:**

- A) Military leave permits an employee to be absent from duty without charge to annual leave or loss of pay while performing active duty and/or active duty for training unless changed by law.
- B) Military Leave will be administered in accordance with applicable law, rule, and regulation, or any changes thereto.

**23-9 Absence Without Leave (AWOL):**

When an employee is absent from duty without prior approval, the absence will be charged as Absence Without Leave (AWOL). When the employee informs the supervisor of the circumstances causing the absence, the supervisor will determine whether or not the charge of AWOL should be changed to annual, sick, or leave without pay (LWOP).

**23-10 Leave of Absence for Association Officials:**

The Employer may grant Leave Without Pay (LWOP) for two (2) years for a permanent employee who is elected or appointed to serve full time as a National Representative with the Association. An extension for two (2) additional years may be granted.

**23-11 Restoration of Duties:**

An employee who has been granted an approved leave of absence will, upon its expiration, be restored to duties within the scope of their position, providing the employee reports to work within the limits of the approved leave; unless the employee has been notified of a reduction in force during this period of absence. An employee, on approved leave of absence with or without pay, shall accrue all rights and privileges allowable by law.

**23-12 Court Leave:**

- A) Employees called to court as witnesses on behalf of the government, or to serve on a jury are authorized to receive pay during such absences from work without charge to leave. This includes periods of absence in which employees are summoned to appear as witnesses on behalf of a private party in a judicial proceeding to which the government is a party.
- B) Any fees payable for such service must be collected and turned in to the employing agency. Any payments designated as expenses by the court or other appropriate authority may be retained.

**23-13 Law Enforcement Leave:**

May be used in accordance with 5 USC §6323(b)(2)(A). The Employer agrees to post current policy on the Employer's website.

**ARTICLE 24**  
**OVERTIME**

**24-1 Overtime Work**

Time worked outside of normal duty hours shall be considered overtime work.

**24-2 Overtime Compensation**

- A) In accordance with applicable law, rule, and regulation, or any changes thereto, overtime pay is not authorized for T32 National Guard employees. Time worked in excess of the normal hours of work shall be considered compensatory time.
- B) T5 "FLSA Non-Exempt" employees are entitled to overtime pay and may elect to receive compensatory time in lieu of overtime. T5 "FLSA Exempt" employees are eligible for overtime at management's discretion.

**24-3 Selection From Those Qualified:**

The Employer will first ask for volunteers to perform overtime work. If insufficient qualified volunteers are forthcoming, employees will be selected on rotational basis for the required overtime work.

**24-4 Assignment of Compensatory Time:**

- A) The Employer will make every effort to notify personnel who will be required for scheduled overtime work at least forty eight (48) hours in advance or two hours prior to the end of the regular shift for unscheduled overtime work.
- B) The Employer will consider, upon request from an employee, relieving that employee from an overtime assignment where such assignment would result in an unreasonable inconvenience adversely affecting the employee or his family and if another qualified employee is readily available for the assignment and willing to work.

**24-5 Cancellation of Compensatory Time:**

The Employer agrees to notify the employee as soon as possible when the requirement to work compensatory time no longer exists.

**24-6 Call Back Compensatory Time:**

Irregular or occasional overtime work performed by an employee on a day for which work was not scheduled for the employee or for which the employee is required to return to his place of employment will be deemed at least two hours in duration for the purpose of determining compensatory time off.

**24-7 Compensatory Time for Travel:**

Will be awarded in accordance with 5 USC 5541 and 5 CFR part 550 and section 203 of the Federal Workforce Flexibility Act of 2004.

- A) To the maximum extent practical, the Employer will schedule the time to be spent by an employee in a travel status away from his official duty station within the regularly scheduled workweek of the employee.
- B) When it is essential to travel during non-duty hours, the employee will receive compensatory time



unless prohibited by law or government wide regulation.

- C) An employee who is directed to use a specific mode of transportation and elects to use an alternative mode of transportation or an employee who travels at a time other than that directed by the Employer, shall be credited with compensatory time in accordance with the appropriate law, rule or regulation.

**24-8 Compensatory Time Usage:**

Compensatory time is subject to the same requesting and supervisory approval procedures as that of annual leave. Compensatory time should be taken before annual leave, except in those instances where forfeiture of annual leave will occur.

**24-9 Retention of Compensatory Time:**

T32: Compensatory time will be retained for twenty six (26) pay periods from when earned. Lump sum payments for unused compensatory time are not authorized.

T5: Compensatory time will be retained for twenty six (26) pay periods from when earned. After the 26th pay period, it will be paid at the overtime rate in effect when the compensatory time was earned.

**ARTICLE 25**  
**TDY AND TRAVEL**

**25-1 General:**

- A) Selection of the employees for temporary duty assignments will be based upon official necessity and qualifications of the individual to best perform the mission required without regard to sex, race, religion, national origin, competitive or excepted service. To maximum extent practical, the Employer will schedule the time to be spent by an employee in a travel status away from his official duty station within the regularly scheduled workweek of the employee.
- B) So far as necessary in the full performance of their position duties, employees are responsible for responding to temporary duty assignments in the same manner as to duties at their permanent duty station. The Employer acknowledges that personal hardships may arise, and agrees to take them into account with regard to TDY assignments. Finance office personnel are available to advise/assist the employee regarding travel entitlements and reimbursements during normal duty hours. Per Diem for travel or temporary duty as an employee shall be paid in accordance with applicable law, rule, and regulation, or any changes thereto.

**25-2 Advance Notice:**

Employees will be notified of a TDY requirement as soon as the requirement is known. Normally, a ten (10) workday advance notice of the TDY assignment, which the TDY is over three (3) workdays.

**25-3 Assignment of Qualified Employees:**

Management will determine what qualifications are required based on the mission requirements of a particular TDY assignment. Qualified volunteers for a TDY will be sought before non-volunteers are assigned. When an inadequate number of volunteers are available, management will make selection(s) in a fair and reasonable manner.

**25-4 Government Charge Card:**

- A) The agency has directed and provided no other means for employees to receive advance per diem except for the government charge card. It is understood that the agreement to have a government charge card by an employee is a contract between the charge card company and the individual employee, not between the employee and the federal government. Since the government charge card is a condition of employment, abuse may subject the employee to discipline in accordance with applicable law, rule, and regulation, or any changes thereto.
- B) Travelers are required to use their travel card and are responsible for designating an amount equal to the charges on their travel card to be sent to the card issuing bank through mandatory split disbursement. If service/finance charges are incurred due to delinquent reimbursement from the agency to the individual, because of agency fault, the agency will pay the additional costs.
- C) Employees found to be abusing the travel card may have their access restricted until placed on travel orders.

**25-5 Mode of Transportation:**

- A) Employees will be authorized the method of transportation most advantageous to the government. An employee may request a mode of transportation that is not the most advantageous to the government. The employee will be reimbursed according to the elected mode of transportation not to exceed the cost of the transportation most advantageous to the government.

- B) Employees who, as part of their duties, must operate government vehicles over public roads, highways, or interstate throughways, shall not be required:
  - 1) To physically operate a vehicle in excess of any period of ten (10) consecutive hours within a 24-hour timeframe.
  - 2) To operate over weight, over length, or over width vehicles without proper certification and/or prescribed escort vehicles as required by appropriate statute and regulation, except in case of emergency and determined by the Employer.

**25-6 Travel Orders:**

- A) TDY/Travel orders will normally be issued to the employee no later than ten (10) working days prior to departure to ensure that necessary arrangements for obtaining transportation requests can be accomplished during working hours prior to the TDY, unless there are emergencies or unforeseen circumstances. In these situations travel orders will be issued as soon as possible after the situation arises.
- B) TDY/Travel orders will reflect the employee's civilian grade as well as military grade when traveling in a civilian status.
- C) Travel in excess of twelve (12) hours will be payable in accordance with applicable law, rule, and regulation, or any changes thereto.

**25-7 TDY Quarters:**

Employees on TDY for two or more continuous days at locations more than the recommended commuting distance from their permanent duty stations shall be provided:

- A) Government housing or lodging that is in accordance with applicable law, rule, and regulation, or any changes thereto.
- B) Where adequate government housing is not available, the agency shall provide employees transportation to and from their housing and their duty locations.
- C) Upon completion of assigned work on the last day of the TDY outside the recommended commuting distance from their permanent duty station, an employee shall be entitled to leave the TDY location to travel home or to another destination of the employee's choice, unless the Employer has valid reasons for denying such departure.

**25-8 Transportation at TDY Location:**

- A) The Employer will ensure transportation is available at the TDY location.
- B) Any time TDY travel is by government or contract aircraft, a rental vehicle, when necessary, will be authorized. Employees who are authorized to use POV in lieu of government/contract aircraft will be paid for official travel in accordance with applicable law, rule, and regulation, or any changes thereto.

**25-9 Travel Vouchers:**

The employee will normally submit a travel voucher in the Defense Travel System (DTS) or its equivalent, within five (5) working days after completion of travel. The filing of travel vouchers and time spent obtaining per diem/travel arrangements will be accomplished on duty status. Travel vouchers will normally be processed on an annual average of ten (10) workdays following receipt of a travel voucher.

**ARTICLE 26**  
**DISCIPLINE AND ADVERSE ACTIONS**

**26-1 General:**

- A) This article applies to matters of conduct. Performance situations are covered by the Performance Appraisal System Article. The parties are in agreement that the maintenance of discipline is essential to the satisfactory operation of the activity. They are in further agreement that whenever it is necessary to take disciplinary measures against an individual, the overriding consideration will be that the action taken will promote the efficiency of the service.
- B) In cases where discipline/adverse action is proposed for reasons of off-duty misconduct, the supervisor's written notification shall contain a statement of the nexus (relationship) between the off-duty misconduct and the efficiency of the service.
- C) Prior to a meeting relating to a conduct issue, the agency agrees to inform the employee of the intent of the meeting.
- D) Any disciplinary or adverse action taken against an employee shall be initiated in a reasonable amount of time, and will be processed in accordance with this agreement and applicable law, rule, and regulation or any changes thereto. Employees will be afforded all rights and privileges provided for by those regulations.
- E) The parties agree that discipline and adverse actions will be based on "just cause" and be consistently applied and promote the efficiency of the federal service.
- F) Responsibility for advising and assisting managers and supervisors is vested in the HRO staff.

**26-2 Counseling/Warning:**

- A) Counseling of an employee is a private matter between the counseling supervisor and the employee. During the counseling only the employee and the counseling supervisor shall be present.
- B) Counseling is a businesslike exchange of information between a supervisor and an employee. It is guided by the supervisor. It has the specific purpose of improving an employee's conduct or knowledge of a subject related to his employment. It is not a disciplinary action.
- C) Warnings may also be used to resolve conduct problems. Like counseling, warnings are a private matter between the employee and their supervisor. Unlike the counseling, a warning has more serious intent because it may serve notice that disciplinary or adverse action may be imminent should conduct not improve.
- D) Counseling/Warning sessions will be recorded on the Supervisor's Employee Brief, in pencil, including date and precise subject matter. The employee will initial the annotation. The employee will be advised that the record will be erased in three (3) months, unless related to a recurring problem. If the supervisor deems it appropriate, he may erase the entry early.
- E) An appeal of a counseling/warning session may be made through the negotiated grievance procedure. A successful appeal will cause any record of counseling to be expunged.
- F) Admonitions:
  - 1) An (verbal) admonition notifies the employee to desist from a certain course of action. The supervisor will describe the offense in sufficient detail to enable the employee to understand why

the admonition is necessary.

- 2) Will be annotated on the Supervisor's Employee Brief, in pencil, and will specifically contain the words "admonition". The employee will be advised that the record will be erased in six (6) months, unless related to a recurring problem. The employee may reply in writing or verbally to the admonition. If the employee provides a reply, the supervisor will annotate the employee's reply. If the supervisor deems it appropriate, he may erase the entry early.
- 3) An appeal of the admonition may be made through the negotiated grievance procedure. A successful appeal will cause any record of the admonition to be expunged.

#### **26-3 Disciplinary Action:**

- A) Disciplinary Actions consist of "Written Reprimands".
- B) Before disciplining an employee, the appropriate supervisor shall gather all available facts and discuss them with the employee, informing the employee of the reason for the investigation. A supervisor must ensure all relevant facts are raised, before issuing disciplinary action. After the discussion and considering the employee's response, the supervisor will then advise the employee if the discussion resolved the matter.
- C) The parties recognize the agency's discretion to determine an appropriate penalty in accordance with applicable law, rule, and regulation or any changes thereto. Disciplinary actions shall generally be progressive in nature. If a letter of reprimand is decided upon, the following procedures will apply:

Written reprimand:

- 1) The letter of reprimand is normally issued by the first line supervisor. If someone else in the employee's supervisory chain issues a reprimand, it should be endorsed through the first line supervisor to the employee. A written reprimand can be used when counseling, warning or oral admonishment proves ineffective. It also can be used when the nature of the violation warrants more than counseling, warning or admonishment, but does not warrant an adverse action, such as suspension, reduction in grade or removal.
- 2) Describe the offense in sufficient detail to enable the employee to understand why the reprimand is necessary.
- 3) Inform the employee that the letter will be filed as a temporary document in the electronic Official Personnel Folder (eOPF). Retention period may not exceed one (1) year, unless related to a recurring problem. If the supervisor deems it appropriate, he may remove the letter early.
- 4) Inform the employee that the reprimand may be challenged through the negotiated grievance procedures. A successful appeal will cause the action to be withdrawn and all record of the action to be expunged.

#### **26-4 Adverse Actions:**

- A) An adverse action is an administrative action that results in removal, suspension, reduction in grade or compensation of any employee. The parties recognize the agency's discretion to determine an appropriate penalty in accordance with applicable law, rule, and regulation or any changes thereto. Consistent with established policy, adverse actions shall generally be progressive in nature and fairly relate to the offense. Whenever the Employer has decided to effect a reduction in grade or removal, the employee will be offered an opportunity to resign before the written decision is issued.

- 1) There must be a reason for taking an adverse action; that reason is commonly referred to as a "cause" and is defined as "an offense against the Employer/employee relationship". What constitutes a "cause" is a decision that must be made on the merits of each situation.
  - 2) Having a "cause" is not sufficient to warrant an adverse action. Management must also provide written justification to show a preponderance of evidence and that taking an adverse action will promote the efficiency of the service. This is done by establishing a relationship between the "cause" and its impact or effect upon the efficiency of the service. The reason for sharing this information on the on-set of the charge, is two-fold:
    - a. Assist the representative in determining whether or not there is reasonable belief to substantiate the charge;
    - b. To assist the representative in determining whether appealing the action may be a futile effort.
- B) The Employer agrees that adverse actions will not be initiated without consulting with the deciding official (normally the next level supervisor) and the HRO before issuing a proposed adverse action and original decisions. Adverse actions will be administered in accordance with applicable law, rule, and regulation or any changes thereto.
- 1) Responsibility for advising managers and supervisors is vested primarily in the HRO staff, which is ultimately responsible for conclusive processing of adverse actions. The HRO clearance on the procedural aspects of the action must be obtained before the issuance of a proposed adverse action notice, original decision or final decision.
  - 2) Employees will be given adequate notice of proposed adverse action, signed by the management official proposing the action. The employee or the representative will be given the opportunity to reply to the charges, orally or in writing, to the deciding official (normally the next higher supervisor) within ten (10) working days after receipt of the notice of proposed adverse action. The employee will be given a reasonable amount of time to prepare his or her defense in a duty status.
  - 3) The employee will be given the original decision, signed by the Deciding Official that will state the specific action being taken. The appropriate manager will normally issue the original decision, as soon as possible or within ten (10) working days of the employee response or after the reply period has ended. Upon receipt of the decision, the employee has twenty (20) calendar days to file for one of the following:
    - a. An appellant review by the Adjutant General, an administrative hearing conducted by a National Guard hearing examiner, or
    - b. Advisory arbitrator: The selection and cost of an arbitrator shall be in accordance with the arbitration article of this agreement. If an arbitrator is requested, his decision is considered to be completely advisory in nature and in no way binding on the Employer. The Adjutant General will consider the arbitrator's findings in making the final decision.
    - c. Merit Systems Protection Board (MSPB): An employee may choose to appeal a qualified adverse action to the MSPB in accordance with applicable law, rule, and regulation, or any changes thereto.
- C) Employees requesting an appeal shall state their dissatisfaction and include with the appeal any proof or other supporting documents. The appeal letter will also include whether or not the individual requests representation.

- D) An adverse action may not be grieved through the negotiated grievance procedures if there is a statutory appeal process established.
- E) A suspension or reduction to a lower grade will be carried out if there is no appeal to the action or the appeal procedure has been exhausted and the action upheld in accordance with applicable law, rule, or regulation.

**26-5 Representation Rights:**

- A) If, during an examination or meeting with an employee, a supervisor determines that disciplinary action may result, the Employer agrees to inform the employee of their right to Association representation.
- B) The parties recognize that bargaining unit employees may have a representative of their choice in adverse actions (i.e.; fellow employee, private attorney, Association). When the Association is chosen to represent an employee, all rights flowing from its status as the exclusive representative in 5 USC, Chapter 71 will apply.
- C) An investigatory session will, if representation is requested, be delayed for a reasonable amount of time until the employee(s) representative can be present.
- D) Employees shall be granted a reasonable amount of time to prepare, respond and defend against any disciplinary or adverse actions.
- E) All representatives will be designated in writing with a letter of Representation and Authorized Release of Information. The employee and representative will use the sample memorandum in Appendix A. Once the letter is signed, a copy will be forward to the Human Resources Office, Labor Relations.

**26-6 Administration:**

- A) In any disciplinary/adverse action, an employee will be furnished a copy of all data in the Employer's files which contain evidence used by the Employer to support a disciplinary action upon issuance of the proposed action.
- B) No derogatory entry will be made in the employee's files concerning any matters without the knowledge of the employee. The employee's initials on the Supervisor's Employee Brief acknowledge that the employee knows that an entry was made, but in no circumstance will initialing the entry be considered as an agreement with the entry or an admission of guilt.

**26-7 Time Frames:**

All time lines in this article may be extended by mutual agreement.

**ARTICLE 27**  
**GRIEVANCE PROCEDURES**

**27-1 General:**

Grievances must be resolved as promptly as possible in order to correct any problems or misunderstandings that might exist between parties. Employees within the bargaining unit are required to use this agreed to grievance procedure as the sole means of resolving all complaints covered by this article, except a prohibited personnel practice under 5 USC 2302 in which case the matter may be raised under either the grievance procedure or the statutory procedure, but not both. The employee retains the right to request Association representation in the grievance procedure or to decline such representation. In such cases where representation is declined, the Association will be furnished a copy of the grievance. Employees may pursue their grievances without fear of restraint, coercion, discrimination, or reprisal. Each grievance will be carefully considered on its own merits. The Employer and the Association agree that every effort will be made to settle grievances at the lowest possible level. Many grievances arise from misunderstandings or disputes, which can be settled promptly and satisfactorily on an informal basis at the immediate supervisory level. Inasmuch as dissatisfactions and disagreements arise occasionally among people in any work situation, the filing of a grievance shall not be construed as reflecting unfavorably on an employee's good standing, his performance, or his loyalty or desirability to the organization, nor shall the grievance be considered as a reflection on the employee's supervisor.

**27-2 Definitions:**

Grievance - means any complaint:

- A) By any employee concerning any matter relating to the employment of the employee;
- B) By the Association concerning any matter relating to the employment of any employee; or
- C) By the Association or Employer concerning:
  - 1) The effect or interpretation or a claim of breach of the collective bargaining agreement; or
  - 2) Any claimed violation, misinterpretation or misapplication of any law, rule or regulation affecting conditions of employment.

**27-3 Representation:**

- A) The Association has the right, on its own behalf or on the behalf of an employee in the bargaining unit to present and process grievances. If the employee or group of employees elects to present their grievance to the appropriate supervisor without the assistance of the Association, adjustment of the grievance may not be inconsistent with the terms of this agreement. The appropriate supervisor will notify the Association in advance of a grievance proceeding and inform them of their rights to be present during such proceedings.
- B) An employee may be represented by the Association, or choose to represent himself in any grievance. If the employee represents himself, he will be given a reasonable amount of time to investigate, prepare and present the grievance. All representatives will be designated, in writing, with a letter of Representation and Authorization to Release Information. Once the letter is signed, a copy will be forwarded to the Human Resources Office, Labor Relations.
- C) Personnel not appointed or elected by the Association as officers or stewards will not be allowed to perform Association representational functions, nor will they be allowed the use of official time.



- D) The Employer will, upon request of the Association, disclose information from official records and other sources if the information is necessary for the Association to perform its representational duties in accordance with 5 USC 7114(b)(4).

#### **27-4 Exclusions:**

It is agreed that this negotiated procedure is a full coverage procedure except for those matters specifically excluded below and by law 5 USC, Chapter 71 from the coverage of this agreement. Matters excluded from the negotiated grievance procedure are:

- A) Retirement, life insurance, or health insurance.
- B) A suspension or removal under Para 7532 (National Security) of Title 5, USC.
- C) The classification of any position which does not result in the reduction in grade or pay of an employee. This matter may be appealed under other procedures. Classification appeals will be done in accordance with appropriate procedures and directives.
- D) Any claimed prohibited political activity. (Hatch Act violations)
- E) Any examination, certification or appointment.
- F) Any actions taken pursuant to the provisions of Public Law 90-486, Technician Act of 1968-32 USC 709(f).
- G) An EEO complaint.
- H) Any matters for which there are statutory appeal procedures provided.

#### **27-5 Time Limits:**

- A) Any grievance not initiated within ten (10) workdays after the occurrence of the matter out of which the grievance arose shall not be presented, except where the party involved was not aware of the act that created the situation for the grievance or a recurring condition.
- B) All time limits provided for herein may be extended by mutual agreement for valid reasons, provided a request for extension of time is presented prior to the expiration of the prescribed time limit. Failure of the aggrieved to observe time limits specified in this article will automatically cause cancellation of the grievance. Failure of the respondent to observe time limits specified in this article will automatically cause advancement of the grievance to the next step.

#### **27-6 Grievance Procedures:**

- A) Step #1 – (Informal): The grievance shall first be initiated orally by the concerned employee and/or the appropriate representative with the appropriate Employer's representative in an attempt to settle the matter. The Employer's representative shall render an oral decision within five (5) workdays. Matters not included in the Step #1 grievance shall not be addressed at a subsequent step of the same grievance, unless relevant to the grievance.
- B) Step #2 – (Formal): If the grievance is not resolved at Step #1, the grievance will be submitted in writing within ten (10) workdays to the next higher supervisor who has resolution authority and a copy sent to the state Labor Relations Specialist (LRS). The written grievance must be specific with regard to the time, place, names of employees and management officials involved, the nature of the grievance, and the specific relief desired. A designated Employer official will meet with the employee(s) and the employee's representative to discuss the grievance and give a written answer

within ten (10) workdays after receipt of the grievance.

- C) Step #3 – (Air): If the grievance is not resolved at Step #2, the grievance shall be referred by the aggrieved or the Association to the appropriate air/installation commander within ten (10) work days after receipt of the decision in Step #2. The grievance shall specify the points the decision in Step #2 failed to resolve. The Air/Installation commander, or designated official will have the matter investigated and a written decision rendered within ten (10) workdays after receipt of the grievance.
- D) Step #3 – (Army): If the grievance is not resolved at Step #2, the grievance shall be referred by the aggrieved or the Association to the Chief of Staff within ten (10) work days after receipt of the decision in Step #2. The grievance shall specify the points the decision in Step #2 failed to resolve. The Chief of Staff, or designated official will have the matter investigated and a written decision rendered within ten (10) workdays after receipt of the grievance.
- E) Step #4 – (Adjutant General): If the response at Step #3 is unacceptable, the aggrieved party shall submit the grievance package with decisions and supporting evidence to the Adjutant General. If the grievance is forwarded to the Adjutant General, this will be accomplished within ten (10) workdays after receipt of the decision from Step #3. The Adjutant General or his designated official will take the actions considered necessary and will render a decision within ten (10) workdays after receipt of the grievance. The decision of the Adjutant General will be addressed to the aggrieved with a copy to their representative if applicable.

#### **27-7 Cancellation of Grievances:**

The grievance may be cancelled by the grievant at any time and the grievant will notify the other party in writing.

#### **27-8 Employer and Labor Organization Grievance Procedure:**

The purpose of this section is to provide for the satisfactory settlement of grievances where no single employee grievance is involved.

##### **A) Association Grievance:**

The Association agrees to attempt to informally resolve the grievance at the appropriate level prior to formal presentation.

- 1) If unable to informally resolve the grievance, the Association grievance will be submitted in writing to the Air/Installation commander or Chief of Staff, whichever is appropriate, for resolution, and a copy sent to the LRS. A written decision shall be rendered within ten (10) workdays after receipt of the grievance.
- 2) If the written resolution is not acceptable, the Association grievance shall be forwarded to the Adjutant General (TAG), State of Missouri. The Adjutant General or his designated representative will meet with the Association within ten (10) workdays after receipt of the grievance to discuss the same. The Adjutant General, or designated official shall give a written decision within ten (10) workdays after the conclusion of the meeting.

##### **B) Employer Grievance:**

The Employer agrees to attempt to informally resolve the grievance at the appropriate level prior to formal presentation. If unable to informally resolve the grievance, the Employer's grievance shall be submitted in writing to the appropriate chapter president and the LRS. The chapter president and the Employer or his designated representative will meet within ten (10) working days to discuss the grievance. The appropriate chapter president shall render a written decision to the Employer within ten (10) working days after the conclusion of the above said meeting.

**27-9 Grievance Arbitration:**

If the aggrieved party is not satisfied with the decision rendered by the Adjutant General, the party may refer the matter to arbitration in accordance with the Arbitration Procedures article of this agreement.

**ARTICLE 28**  
**ARBITRATION PROCEDURES**

**28-1 Purpose:**

- A) Any grievance not satisfactorily settled under the negotiated grievance procedure shall be subject to binding arbitration. Arbitration will be invoked only by the Employer or the Association. The parties agree to assist the arbitrator by making complete case presentations and by fully laying out applicable laws, regulations and other precedent cases which are appropriate to the case being heard.
- B) A decision to submit a matter to arbitration must be made in writing or by email to the other party within ten (10) workdays following the final decision on the grievance or, if mediation is used, within ten (10) days of the mediator releasing jurisdiction of the case.
- C) If either party questions the arbitrability of a matter because of alleged conflicts with applicable existing law or circumstance(s), the arbitrator may simultaneously hear the question of arbitrability and the merit(s) of the case, at his option. The arbitrator will then rule on the question of arbitrability and when applicable, the subsequent question(s) on the merits of the case.

**28-2 Arbitrator Selection:**

- A) Within five (5) workdays from the date of the decision to submit the matter for arbitration, either party or both parties together shall request the Federal Mediation and Conciliation Service (FMCS) to provide a list of seven (7) available arbitrators. FMCS will be notified on the request for arbitration panel of any special requirements to include the procedures for arbitration agreed to by the parties in accordance with Section 29-3 below. The parties will confer within fifteen (15) workdays after both parties have received the list of arbitrators. If the parties cannot mutually agree upon one of the listed arbitrators, the Association will strike a name from the list first, with each party alternately striking a name until only one name remains. The remaining arbitrator will be contacted to hear the grievance. The parties agree that if the selected arbitrator is unavailable to hear the grievance within sixty (60) days, the parties may select a new arbitrator using the above procedures. No information will be provided by either party to the arbitrator prior to his arrival.
- B) The parties agree to make known to the FMCS the requirements to be placed on an arbitrator.

**28-3 Expediting Procedures:**

The parties may employ either of the following procedures, upon mutual agreement, in order to expedite an arbitration case. The procedure utilized will depend on the nature of the case at hand and what will produce a timely decision. Failure of the parties to mutually agree on one of the following procedures will automatically implement procedure (2) below.

- 1) Request the arbitrator to enter into a mediation effort to resolve the issues prior to conducting an arbitration hearing.
- 2) Request a full hearing with a written award within sixty (60) days after the hearing or submission date of post hearing briefs, whichever is later.

**28-4 Location of the Hearing:**

Arbitration hearings will be held, if possible, on the Employer's premises during the regular day shift hours of the basic workweek. Employees of the agency who are required to participate in the hearing will be in a duty status.

**28-5 Arbitration Expenses:**

Expenses of arbitration will be shared equally by the Employer and the Association. These expenses may include the cost of the arbitrator, transcription and his travel expenses, if required.

**28-6 Federal Labor Relations Authority (FLRA) Exceptions:**

The parties understand the FLRA has promulgated regulations providing for filing of exceptions to an arbitrator's award. The period for filing of exceptions is not later than thirty (30) days from the date the award is served on the parties. The date of service is the date the arbitration award is deposited in the U.S. mail or is delivered in person. It is understood that if no exceptions to an award are filed during this thirty (30) day period, the award shall be final, binding, and effective on the thirty first (31st) day.

**28-7 Compliance:**

Certificate of compliance with the decision of the arbitrator, to include corrective action where appropriate, shall be provided to the other party as soon as practical.

**ARTICLE 29**  
**MEDIATION**

**29-1 Policy:**

The Employer and the Association agree to follow the provisions of the law when agreement cannot be reached over issues that are deemed appropriate for collective bargaining in accordance with 5 USC, Chapter 71, as amended.

**29-2 Procedures:**

The Employer and the Association agree that when an impasse is reached during negotiations, either party may request assistance from the FMCS. Neither party will frame the issue for the mediator. If agreement cannot be reached after invoking mediation, either party may request assistance from Federal Service Impasses Panel (FSIP).

**ARTICLE 30**  
**UNFAIR LABOR PRACTICES**

**30-1 Responsibilities:**

A) In accordance with 5 USC, Chapter 71, it shall be an Unfair Labor Practice (ULP) for the Employer to:

- 1) Interfere with, restrain, or coerce an employee in the exercise of their rights under 5 USC, Chapter 71.
- 2) Encourage or discourage membership in the Association by discrimination in regard to hiring, tenure, promotion or other conditions of employment.
- 3) Sponsor, control or otherwise assist the Association, except that the Employer may furnish customary and routine services and facilities if the services and facilities are also furnished on an impartial basis to other Labor Organizations having equivalent status.
- 4) Discipline or otherwise discriminate against an employee because the employee has filed a complaint, affidavit or petition or has given any information or testimony under 5 USC, Chapter 71.
- 5) Refuse to consult or negotiate in good faith with the Association as required by 5 USC, Chapter 71.
- 6) Fail or refuse to cooperate in impasse procedures and impasse decisions as required by 5 USC, Chapter 71.
- 7) Enforce any rule or regulation (other than a rule or regulation implementing 5 USC 2302 - Prohibited Personnel Practices) which is in conflict with any applicable collective bargaining agreement if the agreement was in effect before the date the rule or regulation was prescribed.
- 8) To otherwise fail or refuse to comply with any provision of 5 USC, Chapter 71.

B) In accordance with 5 USC, Chapter 71, it shall be a ULP for the Association to:

- 1) Interfere with, restrain or coerce any employee in the exercise by the employee of any right under 5 USC, Chapter 71.
- 2) To cause or attempt to cause the Employer to discriminate against any employee in the exercise by the employee of any right under 5 USC, Chapter 71.
- 3) To coerce, discipline, fine or attempt to coerce a member of the Association as punishment, reprisal or for the purpose of hindering or impeding the member's work performance or productivity as an employee or the discharge of the member's duties as an employee.
- 4) To discriminate against an employee with regard to the terms or conditions of membership in the Association on the basis of race, color, creed, national origin, sex, age, preferential or non-preferential civil service status, political affiliation, marital status or handicapping condition.
- 5) To refuse to consult or negotiate in good faith with the Employer as required by 5 USC, Chapter 71.
- 6) To fail or refuse to cooperate in impasse procedures and impasse decisions as required by 5 USC, Chapter 71.

- 7) To call or participate in, a strike, work stoppage or slowdown or picketing of the Employer in a labor-management dispute if such picketing interferes with an Employer's operations or to condone any activity described above by failing to take action to prevent or stop such activity.
- 8) To otherwise fail or refuse to comply with any provision of 5 USC, Chapter 71.
- C) The Association shall not deny membership to any employee in the appropriate bargaining unit except for failure to meet reasonable occupational standards uniformly required for admission or for failure to tender initiation fees and dues uniformly required as a condition of acquiring and retaining membership. This paragraph does not preclude the Association from enforcing discipline in accordance with procedures under its constitution or by-laws which conform to the requirements of 5 USC, Chapter 71.

**30-2 Procedures:**

- A) The purpose and policies of the Federal Service Labor Management Relations Statute can best be achieved by the cooperative efforts of the parties to this agreement. To this end, it is agreed that either party desiring to file a charge alleging an unfair labor practice shall first file an informal notice in writing with the other party at least 15 work days prior to filing a formal charge with the FLRA. This notice period will not apply with regard to the previous section paragraph B) 7).
- B) Issues which can properly be raised under an appeals procedure may not be raised as an unfair labor practice. Issues which can be raised under grievance procedure may, at the discretion of the aggrieved party, be raised under the grievance procedure or as a ULP, but not under both procedures.
- C) The expression of any personal view, argument, opinion or the making of any statement which:
  - 1) Publicizes the fact of a representational election and encourages employees to exercise their right to vote in such election,
  - 2) Corrects the record with respect to any false or misleading statement made by any person, or
  - 3) Informs employees of the government's policy relating to labor-management relations and representation, shall not, if the expression contains no threat of reprisal or force or promise of benefit, or was not made under coercive conditions, constitute a ULP under any provision of 5 USC, Chapter 71, or constitute grounds for the setting aside of any election conducted under any provisions of 5 USC, Chapter 71.



**ARTICLE 31**  
**OFFICIAL TIME FOR EXCLUSIVE REPRESENTATIVES**

**31-1 Official Time:**

Official time shall be granted in any amount the Employer and the Association agree to be reasonable, necessary and in the public interest, without loss of annual leave, during duty hours for the Association representatives to conduct business that is of interest to the Association and/or the agency. Official time under this article shall include all representational functions permitted by law, according to the Federal Labor Relations Statute (5 USC 7131).

**31-2 Recognition of Association Officials:**

Representatives employed by the Employer and certified by the Association in writing shall be recognized by the Employer as the exclusive representatives for the bargaining unit employees and shall be entitled to the use of official time under the provisions of this article. No other employee shall be entitled to such use of official time except as specifically authorized by this agreement. For the purpose of official time for representational duties, the Association agrees to limit the number of representatives to one for every 18 bargaining unit members. If more than one representative is selected from the same work center, every reasonable effort will be made to limit absence of more than one representative at a time.

**31-3 Granting of Official Time:**

- A) Official time is prohibited for any activity performed by an employee relating to the internal business of the Association (including the solicitation of membership, election of officials, collection of dues, Association meetings). The Association representatives will obtain permission from their immediate supervisor prior to leaving their assigned area. The supervisors are responsible for authorizing the use of official time. If the labor official's supervisor is not available, the authorization shall be obtained from the supervisor's designated representative or next higher level supervisor in the chain of command. Supervisory permission will be granted except when there are work-related reasons, which preclude such release. Ordinary workload/backlog, will not preclude the release of the requesting Association official. When the Association official has completed the use of official time, they will report back to their supervisor. If it is not practical to release the representative at the time requested, the supervisor shall provide an alternate time for the representative to leave. (NOTE: Employees who do not have permission to leave their work area could be subject to disciplinary action.)
- B) Association officials who desire to use official time will provide their supervisor with the following information:
- 1) Purpose of the request within three categories:
    - a. negotiations,
    - b. labor-management relationship; or
    - c. grievance and appeals
  - 2) The approximate amount of time desired.
  - 3) Location of representative duties; and
  - 4) A telephone number where the representative may be reached.

### **31-4 Appropriate Uses of Official Time**

- A) Representational functions refers to those activities undertaken by employees who are elected and/or appointed officials of the Association, on behalf of other employees of the bargaining unit.
- B) It is agreed that the Association will not have any more representatives at a representational meeting than management. The above parties agree to keep management and Association officials to a minimum number necessary to address the above situation.
- C) While not all-inclusive, some examples of representational functions for which official time is authorized are:
  - 1) Conferring or providing assistance to employees on grievances.
  - 2) A reasonable amount of preparatory time for pre-negotiation, negotiation, appeal(s), grievances, complaints, scheduled meetings and time to prepare/finalize documentation of same proceedings.
  - 3) A representative desiring to discuss a work related matter concerning working conditions, policies and practices with an employee.
  - 4) Attending formal discussions and/or investigatory interviews.
  - 5) Attendance at meetings called by the Employer, Employer representative, FLRA, FSIP, grievance/arbitration, appeals, hearings and other third party proceedings, as required.
  - 6) OSHA, safety council meetings, environmental impact and joint Employer and Association committee meetings.
  - 7) To prepare and maintain records and reports required of the Association by federal agencies.
- D) A representative who travels from his activity to another activity/region during duty hours to represent the Association or a bargaining unit employee is on official time when traveling.
- E) A representative desiring to discuss a work-related matter with an employee shall obtain permission from the employee's supervisor, in advance, before interrupting the employees work. If because of mission, it is not practical to release the employee at that time, the supervisor shall state verbally the reason for the delay and agree to an alternate time as soon as possible.
- F) When an Association Official is the grievant, they may choose a representative IAW 5 U.S.C. 7114. The exclusive representative will be a member of the aggrieved member's chapter or from the National Association.

### **31-5 Training For Association Representatives:**

The Employer shall determine whether or not any employee participating for, or on behalf of, an Association in training for Association representatives shall be authorized official time for such purpose during the time the employee would be in a duty status. It is understood that the training will be of mutual interest to management and the employee as a representative of the Association and to be reasonable, necessary and in the public interest. The Association will request this time by letter to the HRO/LRS and provide a copy of the training agenda. Upon approval, the employee's immediate supervisor will be notified of this request. Association officials may be invited to participate in personnel management/employee relations classes of mutual benefit to management and the Association.

**31-6 Civilian Attire:**

Association representatives are not required to wear the military uniform while performing representational duties or any other Association activity related functions.

**31-7 Travel:**

Association officials requested by management to travel to an Employer sponsored meeting outside their normal commuting area shall travel in accordance with applicable JTRs.

**31-8 Compensatory Time:**

Association Representatives will receive compensatory time when allowed by appropriate government wide regulation.

**31-9 Record Keeping:**

Management shall be responsible for record keeping and will maintain the official and final record. The Association representative will complete the request for official time and return it to the supervisor. The form will reflect total time taken for one duty day.

The supervisor shall forward the form to the LRS. The supervisor shall maintain no other copies, except for time and attendance purposes.

**ARTICLE 32**  
**USE OF FACILITIES**

**32-1 Office Space:**

- A) The Employer will provide each chapter with a sole use office area, with a minimum of 100 sq. feet.
- B) Should management need the office space that the Association is occupying, the Employer agrees to give the Association a minimum of thirty (30) days' notice. The Employer will provide another space of similar size and quality. This move may be accomplished on duty time.
- C) These offices will be located at the following locations:
  - 1) Ike Skelton Training Site
  - 2) St. Joseph-Rosecrans
  - 3) St. Louis or Whiteman AFB
- D) Should the Show-Me Air or Show-Me Army Chapter president position change to a different area of the state, the parties agree to meet, confer and negotiate, if necessary, concerning office space.

**32-2 Office Furniture:**

- A) Office space that is provided for Association use, shall be furnished with accessories and furnishings obtained by the Association through appropriate government channels (i.e.; DRMO, State Surplus, etc).
- B) The Association agrees to be responsible for all government furniture provided for their use. The Association agrees to be responsible for all office equipment, except for normal wear and tear.

**32-3 Office Equipment:**

- A) The Employer will furnish each office with a data system, CPU with modem, monitor, and printer, with access to appropriate AGMO communication systems (i.e.; LAN, WAN, etc.). This equipment shall be comparable with the Employer's equipment.
- B) Maintenance of the above equipment shall be in the same manner as the Employer's office equipment.
- C) If a labor representative does not have access to one of the established Association office spaces, they shall be authorized to use government equipment that is available, to accomplish their representational duties.

**32-4 Copiers and Faxes:**

The Employer agrees to allow the Association use of existing copiers and fax equipment for official representational duties. The use of copy and fax machines will not interfere with normal business. Paper shall be supplied by the Association.

**32-5 Communications:**

Management will furnish one DSN phone line with voice mail, if available, to each office. Commercial phone and long distance service will be at the expense of the Association.

### **32-6 Association Signs:**

Offices that are designated for Association use, the Employer will provide uniform signage.

### **32-7 Bulletin Boards:**

- A) Existing bulletin boards shall be allowed to remain. New bulletin boards will not exceed fifteen (15) square feet.
- B) The Association shall be allowed to post one (1) bulletin board at each facility or building. In large facilities, the Association may request space for additional bulletin boards.
- C) All costs incident to the preparation and posting of material will be borne by the Association and posting of representational material that is not internal Association business, may be posted during duty hours.
- D) The Employer will provide the Association with an Internet presence of at least 10 MB storage. The Association will provide content to be posted to the website by the appropriate Information Management personnel.

### **32-8 Space for Association Meetings and Training:**

- A) Upon request of the Association the Employer will provide space, when available, for the Association to hold meetings and training sessions.
- B) Normally, the Association will submit a written request to the appropriate facility office thirty (30) days in advance of the date on which the meeting/training will be held.
- C) When the Employer furnishes such space, it will be maintained without damage and restored to a state of good order by the Association after use.

### **32-9 Interoffice / Electronic Mail:**

- A) The Association will have access to the use of interoffice/electronic mail at each activity for correspondence between the Association, the Employer, and bargaining unit members. This service will not be used for mass mailing.
- B) This clause does not authorize the use of U.S. Mail by the Association at the Employer's expense.

### **32-10 Parking**

- A) One parking spot shall be reserved for Association Presidents at the following location
  - 1) Ike Skelton Training Site
  - 2) St. Joseph-Rosecrans
  - 3) Jefferson Barracks
  - 4) Whiteman AFB
- B) One desirable parking spot shall be reserved for Association officials at the following locations which have reserved supervisor parking:
  - 1) TASMG, Springfield

- 2) CSMS
  - 3) FMS
  - 4) Flight Facilities
- C) Should the Show-Me Army Chapter President position change to a different area of the state, the parties agree to meet, confer and negotiation, if necessary, concerning parking spaces.

## **ARTICLE 33**

### **INFORMATION**

#### **33-1 Employer Information:**

The Association will be provided access to regulations, publications, and policies through network connectivity, where available. The Association will be provided a copy of the Supervisors Handbook and changes thereto when published. The Association will be provided access to regulations, publications and policies and the opportunity/ability to check them out.

#### **33-2 Association Information:**

The Association agrees to furnish the LRS a complete list of all Association representatives. A complete list will be provided after each election or any time a change occurs.

#### **33-3 Regularly Reoccurring Reports:**

If requested, the Employer agrees to furnish the respective Association:

- A) A copy of the technician manning document (SPMD/UMD) annually,
- B) A copy of or access to the organizational charts semi-annually,
- C) A list of all employees semi-annually,

NOTE: The list of employees will be titled Technician Bargaining Unit Status, and will contain the bargaining unit code, name, occupational series and grade, PD number, position title and unit.

- D) An awards report which will include the name, bargaining unit status, date issued and type of award quarterly.
- E) A copy of any official time report submitted to any outside agency.
- F) A list of EEO counselors and changes as they occur.

#### **33-4 Bargaining Unit Members:**

The Employer agrees to notify the Association prior to changing structure that affects the overall size or location of the bargaining unit.

#### **33-5 Bulletin Board Information:**

Bulletin boards will be maintained by Association officials in a professional manner. The Employer may copy any information that is posted on Association bulletin boards provided it is taken down, immediately copied, and placed back on the bulletin board.

#### **33-6 Distribution:**

The Employer agrees to furnish each chapter with an e-mail address and electronic Distribution A, C and D. Each chapter identifies representatives to receive distribution.

**33-7 Association Publications:**

The Association agrees to provide the Employer with a copy of the ACT National Newspaper and any reoccurring local publications.

**33-8 Request for Information Under the Statute:**

Upon request, the Association will be provided information in accordance with 5 USC 7114(b)(4). Information requests will be answered within five (5) working days unless extended by mutual agreement.

**33-9 Information and Periodic Briefings:**

Employees will be advised annually through the Human Resources Bulletin, the latest information regarding health and welfare, retirement benefits, workmen's compensation procedures and benefits, and employees rights covered under 5 USC 7114 (a)(3) (Weingarten Rights). Once a year employees may review their Official Personnel Record (OPR). Once scheduled, they will be afforded an appropriate amount of duty time to travel to and from the HRO at no expense to the government.

**33-10 Military Compatibility:**

The Employer agrees to notify the affected employee whenever a situation occurs which causes a T32 technician to lose military compatibility status when they become aware.

**33-11 Employee Chain Of Supervision**

The Employer agrees to provide a current chain of supervision to an employee upon request.



**ARTICLE 34**  
**WAGE SURVEYS and COMMERCIAL ACITIVITY STUDIES**

**34-1 Notification:**

The Employer agrees to notify the Association in advance of any Wage surveys and hearings.

**34-2 Association Participation:**

The Association officials or designee will attend Wage Grade survey hearings on behalf of the agency. The lead Association may request ACT to participate on the survey committee or other aspects relating to the survey. Participation of Association officials will be in a duty status. If the Employer requests Association participation, travel and per diem will be paid by the Employer in accordance with the JTR.

**34-3 Commercial Activity Studies**

The Employer will notify the Association concerning any commercial activities' study which involves employees in the bargaining unit. The Employer will extend an opportunity to the Association to meet, confer and negotiate with respect to the impact on unit employees affected by the contracting out and to attend subsequent meetings which may affect bargaining unit employees.

**ARTICLE 35**  
**FOSTERING PARTNERSHIP**

**35-1 Goals**

Continuing collaboration is a common goal of both the employer and the Association. This collaboration provides all employees with the best working environment possible and respects the employee's protected rights guaranteed by law while putting the mission first and ensuring accountability at all levels.

**35-2 Partnership Meetings**

For continuing collaboration, annually the three Association Presidents, in a concerted effort may request in writing to the Adjutant General, a meeting with management. The written requests will state the reason and topics the Association wishes to discuss. The topics must potentially affect the majority of bargaining unit employees in a chapter. A copy of this request will be furnished to Labor Relations Specialist upon request. At the Adjutant General's discretion, he will determine the time and place of the meeting.

**ARTICLE 36**  
**AGREEMENT ADMINISTRATION**

**36-1 Effective Date:**

- A) The effective date of this agreement shall be after execution by the parties and approval by Department of Defense. Both dates will be made part of the agreement prior to distribution.
- B) The head of the Agency shall approve the agreement within thirty (30) days from the date the agreement is executed by the parties if the agreement is in accordance with the provisions of applicable law, rule, or regulation.
- C) If the Agency does not approve or disapprove the agreement within the thirty (30) day period, the agreement shall take effect and be binding on the Employer and the Association subject to the provisions of applicable law, rule, or regulation.

**36-2 Agreement Duration:**

This agreement will remain in effect for three (3) years from the date of approval by the Agency.

**36-3 Agreement Precedence:**

Upon approval, this collective bargaining agreement takes precedence over any conflicting provisions in Employer regulations which predate, as well as those that postdate this agreement. Except those agency regulations that are government wide and for which there is a compelling need.

**36-4 Agreement Amendments/Supplements:**

- A) This agreement may be subject to amendments or supplements during the agreement lifetime as follows:
  - 1) Either party, within the first 6 months, may submit proposals for negotiations for the purpose of supplementing this agreement with provisions not covered by or contained within this agreement.
  - 2) Either party may initiate negotiations at the mid-point of this agreement, after service of notice no later than sixty (60) days prior to the midpoint of this agreement. Both parties agree to limit these negotiations to not more than three (3) articles each.
  - 3) At any time, by mutual consent, for the purpose of amending or providing supplements to this agreement.
- B) A request for an amendment or supplement to this agreement by either party shall be in writing setting forth the need or reason for the proposed change and a summary of the change.
- C) Representatives of the Employer and the Association will meet within twenty (20) days to commence negotiations of the proposed amendment or supplement, unless a later date is mutually agreed upon. No changes other than those specified in the summary will be considered.
- D) An amendment or supplement to the agreement will have the same expiration date as the other provisions of this agreement.

**36-5 Negotiating a New Agreement:**

A request for negotiation of a new agreement shall be in writing to the other party no earlier than 180 days or later than 90 days prior to the termination of this agreement. In the event either party fails to request negotiation of a new agreement within the established timeframe, this agreement will automatically extend for a period of one year.

If necessary, the Association and the Employer agree to meet sixty (60) days prior to the expiration of this agreement for the purpose of negotiating a Memorandum of Understanding (MOU) (ground rules). Participation will be limited to four (4) individuals from the Employer and four (4) individuals from the Association. All travel and per diem to negotiate the MOU will be paid in accordance with JTR. Official time, not to exceed one (1) day, shall be granted, prior to the negotiation session, for the purpose of preparing the MOU for negotiations.

## **DEFINITIONS**

Agency - An executive agency, the Department of Defense.

Application - A resume', OF-612, etc., including attached documentation are considered the application as a whole. (These products may be electronic)

Association - Association of Civilian Technicians, Show-Me Air Chapter, Show-Me Army Chapter and Pony Express Chapter as defined in 5 USC 7103(a)(4).

Association Official - any elected or appointed dues paying member of the Labor Organization.

Bargaining Unit - as defined in Article 1, Section 1.2

Confidential Employee - is an employee that meets both of the below conditions (50 FLRA No. 21):

There is evidence of a confidential working relationship between an employee and the employee's supervisor; and

The employee's supervisor is significantly involved in Labor/Management relations.

Consult - to meet, so as to exchange views or ideas.

Days - Calendar days unless otherwise noted.

Disciplinary Action - a letter of reprimand.

Emergency – An emergency situation is defined as a significant occurrence or situation requiring prompt action and is not normally a result of routine problems. When emergency procedures are invoked, the Association will be notified as soon as possible of the situation and expected duration.

Employee - An excepted or competitive Federal Civil Service employee employed by the Missouri National Guard.

Employer - The Adjutant General, Missouri National Guard.

Exclusive Representative - Association of Civilian Technicians as defined in 5 USC 7103(a)(16)

Family Member - Spouse, and spouses' parents, children and their spouses' parents, brothers and sisters and their spouses, and others whose close association creates the equivalent of a family relationship.

FLRA - Federal Labor Relations Authority

Formal Discussion - A discussion between one or more representatives of the Employer and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general condition of employment.

GSA - General Services Administration

HRO - Human Resources Office.

LMA - Labor-Management Agreement

LRS - Labor Relations Specialist

Management Official - An individual employed by the Employer in a position the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of the Employer.

MSPB – Merit System Protection Board

National Association Official- ACT National Representatives.

Negotiate - to confer so as to come to terms or reach an agreement.

Negotiation Process - A process where management and the Association meet at reasonable times to consult and negotiate in a good faith effort to reach an agreement. Should an agreement not be reached the parties shall seek the assistance of the FMCS. Should no agreement result, the matter is considered at impasse, at which time the parties shall proceed to the FSIP as defined by 5 USC, Chapter 71.

OPF - Official Personnel File

OSHA - Occupational, Safety and Health Administration

OWCP - Office of Workers' Compensation Program

Past Practice - A practice, written or unwritten, commonly accepted by management and labor, which may generally affect working conditions.


Promotion - The movement of an employee, while serving continuously within the same Employer, to a position at a higher grade level within the same job classification system and pay schedule, or to a position with a higher rate of basic pay in a different job classification system and pay schedule.

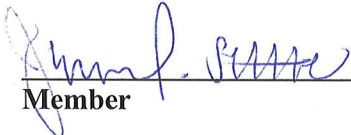
Statute - An established law or rule. In this document it specifically refers to 5 USC Chapter 71 (Federal Service Labor-management Statute 5 USC Chapter 71)

Supervisor - An individual employed by the Employer in the interest of the Employer to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature, but requires the consistent exercise of independent judgment.

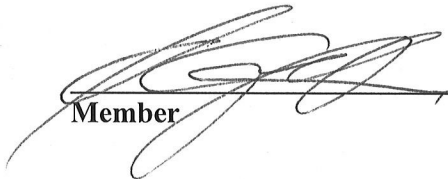
IN WITNESS WHEREOF, the parties hereto have enter into this agreement on 4 January 2022. Implementation of this agreement is dependent upon Association membership ratification, Defense Civilian Personnel Advisory Service approval and The Adjutant General's Signature.

**FOR THE MISSOURI NATIONAL  
GUARD:**

  
\_\_\_\_\_  
**Chief Negotiator**

  
\_\_\_\_\_  
**Member**

  
\_\_\_\_\_  
**Member**

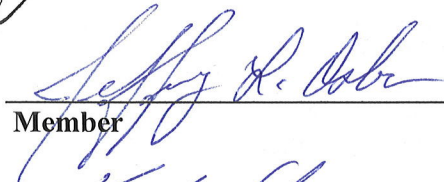
  
\_\_\_\_\_  
**Member**

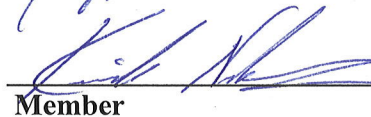
**FOR THE ASSOCIATION OF  
Civilian Technicians (MO  
Council of Chapters):**

Tom  
Mahoney  
\_\_\_\_\_  
**Chief Negotiator**

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Mahoney  
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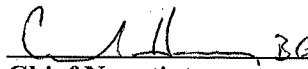
  
\_\_\_\_\_  
**Member**

  
\_\_\_\_\_  
**Member**

  
\_\_\_\_\_  
**Member**

The undersigned agree, on behalf of both parties, to adopt the changes required in the below DCPAS Disapproval Letter for all articles addressed. Those corrections have been made in the above agreement.

**FOR THE MISSOURI NATIONAL  
GUARD:**

  
\_\_\_\_\_  
Chief Negotiator

**FOR THE ASSOCIATION OF  
Civilian Technicians (MO  
Council of Chapters):**

Thomas  
Mahoney  
\_\_\_\_\_  
Chief Negotiator

Digitally signed by Thomas  
Mahoney  
Date: 2022.02.11 15:05:35  
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DEPARTMENT OF DEFENSE  
DEFENSE CIVILIAN PERSONNEL ADVISORY SERVICE  
4800 MARK CENTER DRIVE  
ALEXANDRIA, VA 22350-1100

January 28, 2022

MEMORANDUM FOR THE ADJUTANT GENERAL, MISSOURI NATIONAL GUARD  
ATTN: MR. ADAM L. MILLER, LRS  
2302 MILITIA DRIVE  
JEFFERSON CITY, MISSOURI 65101

SUBJECT: Collective Bargaining Agreement (CBA) between the Missouri National Guard and the Association of Civilian Technicians (ACT), Missouri Army and Missouri Air Chapters

The subject agreement, executed on January 4, 2022, was reviewed pursuant to 5 U.S.C. §7114(c). I recognize the parties negotiated this agreement in good faith; nevertheless, the agreement is disapproved because the following provisions did not conform to existing law, rule, or regulation. Specifically:

- a) Article 11, Workweek and Hours of Work, Section 11-2, Changes in Shift Assignments, paragraph B, states:

*"Those individuals assigned a new schedule will be given a minimum of 30 days' advance notice except as required by 5 CFR 610.121(a)."*

This provision is inconsistent with Section 5 C.F.R. §610.121, "Establishment of work schedules" which provides that except when the head of an agency determines that the agency would be seriously handicapped in carrying out its functions or that costs would be substantially increased, assignments to tours of duty are scheduled in advance of the administrative workweek over periods of not less than 1 week. This provision allows a minimum of 30 days advance notice. Under Section 5 U.S.C. §7117(a)(1), a negotiated provision cannot be inconsistent with any Government-wide regulation. Therefore, this provision is non-negotiable. See *American Federation of Government Employees, Local 1815 and U.S. Department of the Army, U.S. Army Aviation Center and Fort Rucker, Fort Rucker, Alabama*, 53 FLRA 606 (1997).

Recommendation: the parties can remedy this violation by rewording the language similar to the following: *"Those individuals assigned a new schedule will be given an advanced notice of not less than 1 week, except as required by 5 CFR 610.121(a)."*

- b) Article 11, Workweek and Hours of Work, Section 11-2, Changes in Shift Assignments, paragraph C, states:

*“Those individuals assigned the new work hours will be given a minimum of 5 workdays, advance notice except when the first O6 position in the chain of supervision or the equivalent supervisory authority determines that its operational capabilities will be seriously handicapped or costs would be substantially increased.”*

For the same reasons stated in a) above, this provision is non-negotiable.

Recommendation: the parties can remedy this violation by rewording the language similar to the following: *“Those individuals assigned the new work hours will be given not less than 1 week advance notice, except when the first O6 position in the chain of supervision or the equivalent supervisory authority determines that its operational capabilities will be seriously handicapped or costs would be substantially increased.”*

- c) Article 11, Workweek and Hours of Work, Section 11-4, Rest Periods, paragraph A, states:

*“One fifteen (15) minute rest period is authorized for each four (4) hour period of continuous work. The rest period will not be combined with the lunch period.”*

While we understand the intent of this language may only be to recognize that employees should ordinarily receive break periods daily, as worded, it conflicts with management’s 5 U.S.C. §7106(a)(2)(B) right to assign work. To categorically state that an employee is entitled to a break period without any consideration for mission requirements and whether the workload will permit the break period violates management’s aforementioned right to assign work.

Recommendation: Either delete this language entirely or change the language to read: *“One fifteen (15) minute rest period may be authorized for each four (4) hour period of continuous work. The rest period will not be combined with the lunch period.”*

- d) Article 13, Employee Assistance Programs, Section 13-2, Program Responsibility, paragraph C, states:

*“The EAP services’ provider will provide assessment and referral services by master’s or doctorate level therapists.....”*

This provision negotiates conditions of employment on persons outside the bargaining unit who are not bargaining unit employees, i.e. contractors. “Private contractors”

do not meet the definition of employee found in 5 U.S.C. §7103(a)(2). The provision is therefore non-negotiable as it negotiates limitations on persons not a part of, nor included in the bargaining unit.

Recommendation: Delete this language.

- e) Article 14, Health and Safety, Section 14-3, Hazardous Material/Communications Training, states:

*“The Employer agrees to provide HAZCOM training in accordance with federal and state laws and will be implemented IAW DoD directives.”*

This provision which identifies a specific type of training to be provided directly interferes with management's right to assign work under 5 U.S. C. §7106(a)(2)(B). Under 5 U.S. C. §7117(a)(1), a negotiated provision cannot be inconsistent with law or Government-wide regulation thereby rendering this sentence non-negotiable. See *American Federation of Government Employees, Local 2094 and Veterans Administration Medical Center, New York, New York*, 22 FLRA 710 (1986).

Recommendation: The parties can remedy this violation by rewording the language similar to the following: *“If management determines that HAZCOM training is needed, it will be provided to employees in accordance with federal and state laws and will be implemented IAW DoD directives.”*

- f) Article 22, Reduction-In-Force, Section 22-4, HRO Responsibilities, paragraph E, states:

*“A specific written notice will be given to each affected employee to be RIF'd at least 60 days prior to the effective date of the action.”*

This language is inconsistent with 5 C.F.R. §351.801(b), which allows for a shorter notice period when the RIF is a result of unforeseen circumstances. The above language asserts that the agency will provide notice sixty (60) days to employees who will be separated as a result of a RIF. Because this provision conflicts with 5 C.F.R. §351.801(b), it is non-negotiable and therefore disapproved.

Recommendation: The parties can remedy this violation by adding the following language: *“A specific written notice will be given to each affected employee to be RIF'd at least 60 days prior to the effective date of the action. The 60 days advance notice period may be shortened in the event the RIF occurs as a result of unforeseen circumstances.”*

In light of the disapproval of the agreement, the parties have two options: 1) You may implement the agreement, excluding the disapproved provisions noted above, by

submitting a copy of your approved ground rules or other written document indicating both parties agree to implement the approved provisions in the agreement to: [dodhra.mc-alex.dcpas.mbx.hrops-lerd-labor-relations@mail.mil](mailto:dodhra.mc-alex.dcpas.mbx.hrops-lerd-labor-relations@mail.mil), or 2) The parties may delay implementation of any part of the disapproved agreement, negotiate revised language to correct the disapproved provisions, and resubmit the language for approval at a later date to: [dodhra.mc-alex.dcpas.mbx.hrops-lerd-labor-relations@mail.mil](mailto:dodhra.mc-alex.dcpas.mbx.hrops-lerd-labor-relations@mail.mil).

This action is taken under authority delegated by DoD 1400.25-M, Civilian Personnel Manual, Subchapter 711, Labor Management Relations.

A copy of this memorandum was served on the exclusive representative by certified mail on January 28, 2022.

If there are any questions concerning this matter, Dr. Sheryl Scott can be reached at (571) 372-1615, or at: [dodhra.mc-alex.dcpas.mbx.hrops-lerd-labor-relations@mail.mil](mailto:dodhra.mc-alex.dcpas.mbx.hrops-lerd-labor-relations@mail.mil).

Tracy L. Schulberg  
Associate Director  
Labor and Employee Relations

cc via certified mail:

Jeff Osborn, Show-Me Army President  
Show-Me Army, Chapter 92 (ACT)  
Rural Route 2, Box 758  
Marble Hill, MO. 63764

cc via email:

Mr. Nick Hoyt, National Guard Bureau

**IN WITNESS WHEREOF, I, the Adjutant General approve the new Labor-  
Management Agreement effective 23 February 2022**

**FOR THE MISSOURI NATIONAL GUARD**

  
\_\_\_\_\_  
**The Adjutant General**

**WITNESS FOR THE MISSOURI NATIONAL GUARD**

  
\_\_\_\_\_  
**Labor Relations Specialist**